Volume LI] *December 1936* [*Number 4*

POLITICAL SCIENCE QUARTERLY

DEMOCRACY'S THIRD ESTATE: THE CONSUMER

UNTIL well along through the nineteenth century our Anglo-American culture got along very comfortably on the assumption that a family was an adult male with sundry dependents. Once married, a wife was largely a legal nonentity, while children were told their rôles in no uncertain terms. Our cultural ways have changed since then, and we moderns may look back with amused complacency or with a touch of resentment at the earlier state of affairs. For centuries, however, it appears to have evoked no great resentment, but to have seemed a normal condition in the cultural matrix in which it was imbedded.

Today an analogous forking of the cultural ways appears to confront our society as regards the status of the consumer. There are a growing number of thoughtful people who see our economy as already beginning to diverge into a new path from which we shall look back upon what is alleged to be the private ownership of the consumer by business as a cultural survival belonging with the exploitation of children in British mines and the other benevolent atrocities blessed by the gospel of *laissez faire*. Other persons still stand fast in the course we have traditionally trod, citing the venerable doctrine of the consumer's freedom of choice and the resulting alleged subservience of business to the will of the buyer. And meanwhile—not unlike most of our great-grandmothers in their acceptance of their legal status as wives—the mass of consumers do not seem violently agitated over the issue on either side.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

What our culture will do with the insistently emerging concept of the consumer will depend upon many factors, as new situations grind against the accepted ruts of earlier practice. In the pages which follow, the congeries of current beliefs touching the consumer—as to how he behaves, his rôle, and his relations to our business and governmental institutions—will be set down in the form of a series of widely held assumptions or propositions, with accompanying analysis of the origins of these popular assumptions and of their congruity with the rest of our current culture.

A. Assumptions as to the Inevitability of Inequality in Consumption, Based upon Scarcity and Moral Sanctions

1. *Scarcity is a fundamental and permanent characteristic of the necessary commodities of life, and there never have been and never can be enough goods to go around.* This is one of the most firmly rooted economic convictions of men living in those major areas of the earth's surface where nature does not shower her fruits with wanton hand. It lives in us twentieth-century moderns with a strength bred of countless centuries of struggle against man's oldest enemy, Scarcity. It does not, however, tend to exist as an urgent, always-present threat among certain advantageously situated tropical folk where subsistence is relatively bountiful and where imported standards of living from more sparse and temperate zones have not permeated.[1] Among such naturally favored peoples the inequalities in consumption that exist do not need to be rooted in a theory of scarcity; for scarcity ordinarily exists not in such primary things as food, clothing and shelter but in the elaborateness of one's shelter or the decoration of one's canoe or weapons; and should accidents or death occur, the social system is so interwoven as to take care of the emergency.

In our own cultural background, however, in medieval times and long after, scarcity was predominantly a physical and technological reality directly affecting the basic necessities of

[1] See, e. g., Margaret Mead, *Social Organization of Manua* (Bernice P. Bishop Museum Bulletin 76, Honolulu, 1930), p. 65.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

existence. Nature was niggardly and intermittent in its yield, raw materials were scarce, and fabrication by hand was cumbersome. In windfall times of plenty men "ate until the breastbone bulged", since the means of preserving over-supplies were limited. So interdependent were the members of local social units in their common struggle against want that religious and secular legislation combined with folk-sentiment to encourage sharing and to discourage waste.

But with the application of machine production, supported by increasingly rich scientific and technological resources, to the supplying of human needs, scarcity has tended to become increasingly an institutional rather than a physical and technological reality in advanced industrial cultures. We are physically able in the United States to banish scarcity as applying to the everyday subsistence needs of our population, did not a formidable array of prized cultural heritages, such as the price system and our stereotypes as to property and its distribution, block the way.

It has been remarked that the Industrial Revolution gave men a choice as among more babies, more leisure, or a higher standard of living. Our Western culture has emphasized the last. In our institutional system, drenched with the point of view of the rising middle class—which operates theoretically to level off the edges of the plateaus of class-consumption and to substitute one long, unbroken uphill slope of theoretically attainable higher and higher consumption—the way was opened for the aggravation of institutional scarcity by an enhanced degree of psychological scarcity. Stripped of such comfort as he may earlier have found in class rationalizations as to "fit for the likes of me", the humblest man now dared to set his eyes on the very top of the hill, and the endless restless struggle to "arrive" became dignified by the name "Progress".

Meanwhile, the adoption of *laissez faire* as the approved road up the hill has entailed for the aspiring consumer the rejection of such protections as government, church, gild and neighborhood may have afforded in earlier times, and his exposure to all the unrestrained jostling inherent in a strictly self-interested capitalist-minded horde. If he was crowded back, it was still

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

true that somehow "the greatest good" was happening to "the greatest number"; and if he was borne up and forward, his energies were but redoubled by the better view this afforded of the rich banners at the head of the column.

And the upshot of all this is that today, in an age of technological plenty, scarcity continues as an institutional and psychological reality for all but the stronger and luckier members of society almost as urgent as in the days when men fought bare-handed with nature for the means of subsistence. Men have not stopped to examine their institutional hair shirt of Scarcity because they have been hypnotized by the prevailing belief that they could "get ahead".

2. *Property is an evidence of one's industry and worth to society, and therefore there is an essential moral rightness in a man's control over his consumption being determined by the amount of his property, and no man is entitled to anything he does not earn and cannot pay for.* Herein lies our current moral justification, under our system of theoretical freedom and equality, for the fact that in 1929 the ability to consume of the 49,041,000 persons receiving incomes in the United States was distributed in such a manner that 81 per cent of the income-earners received less than $2,000 during the year, and their incomes aggregated only 43 per cent of total incomes received, while at the other extreme the final one half of 1 per cent of the income-earners, getting $15,000 and over, received 20 per cent of the total incomes received.[2] A democratic culture stressing theoretical equality among its members naturally needs some explanation for such lopsidedness in ability to consume. For our justification we employ certain generalizations more appropriate to an earlier cultural scene than to the current state of society. It is relatively true in simple handicraft economies, with little money and few of the techniques of middlemen and bankers, that for all save the political rulers there is a high correlation between one's industry and one's property; if one owns a new stone barn, one has built

[2] Leven, Moulton and Warburton, *America's Capacity to Consume* (Washington, 1934), p. 207.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

it, stone upon stone, with the sweat of one's back. And as a result, in a primitive culture or in the early medieval villages of England, where everyone had a place in society and where the drifting, locally rootless individual was an anomaly,[3] it was easy to apply moral condemnation to the cases where property was lacking and to say that it was "one's own fault" and due to sloth and carelessness.[4] Thus the moral justification for inequalities in the ownership of the means of consuming was rationalized both positively and negatively.

We have traveled a long road since church precept, the reciprocal obligations of feudal life, and the amenities of highly localized village living gave one such a workable rationale of property and, in cases of honest emergency, afforded one valid claims on others' property which softened the asperities of *meum* and *tuum*. Property with us moderns has ceased for the most part to be the homely functional implements of daily living, wrought out by our own hands with the reciprocal help of neighbors and intimately interwoven with the vital ends of human life. And yet there never was a time when the possession of property was more necessary for living. The institution of money, irrelevant in itself to the urgent realities of

[3] It is difficult for us in our impersonal, footloose urban culture to recapture the early place-fixity of life and the novelty and even suspicion that shrouded the stranger in other types of societies. Codrington says of the Melanesians, "A stranger as such was generally throughout the Islands an enemy to be killed." R. H. Codrington, *The Melanesians* (Oxford, 1891), p. 345. In early medieval England, while the introduction of new tenants on a manor was possible, Ashley says, "it was probably very rare; the same families tilled the village fields from father to son." Sir William Ashley, *An Introduction to English Economic History and Theory: The Middle Ages* (London, 1892), p. 33. Tawney characterizes the peasant culture of medieval England as "an age . . . where most men have never seen more than a hundred separate individuals in the course of their whole lives." R. H. Tawney, *The Agrarian Problem in the Sixteenth Century* (New York, 1912), p. 264.

[4] This moral condemnation of the propertyless man was applied with zealous ferocity to the "hardy beggars" of England set adrift by the enclosures. See R. H. Tawney, *Religion and the Rise of Capitalism* (New York, 1925), pp. 253 *et seq.* Sir Frederick Eden observed in 1797: "There seems to be just reason to conclude that the miseries of the labouring Poor arose, less from the scantiness of their income . . . than from their own improvidence and unthriftiness." *The State of the Poor* (London, 1928 ed.), p. 100. The same spirit characterized the English Poor Law of 1834.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

consumption, has intervened between one's industry and one's ability to transmute that industry into consumption, so that under modern conditions most men are engaged in "making" money, not things.[5] The result has been that nowadays large accumulations of property—and lesser accumulators tend to follow in so far as possible the pattern of the more successful—are ordinarily achieved not so much by personal industriousness as by the adroit manipulation of our pecuniary institutions. Yet, by what Veblen terms a "dialectical conversion", we cling to the earlier identification of property ownership with hard work and thus hold intact the earlier moral justification for one's control over consumption being determined by the amount of one's property.

Meanwhile, poverty and lack of property have in modern times become increasingly associated with snarls in the institutional machinery of our culture rather than with deficiencies of muscle or will. Nevertheless, a generation wise enough to invent giant turbines and to open doors by the use of the photo-electric cell still insists, with John Locke, that poverty is due to "the relaxation of discipline and the corruption of manners"[6] and is in the last analysis the "fault" of the individual concerned. We may wish that no man's baby go without milk, that medical facilities were more cheaply available to all sufferers, that annual vacations were within the reach of all tired families, yet we dare not relax the assumed moral law underlying consumption that "thou shalt not consume what thou canst not pay for." And so we formally exhort the consumer to try but a little more, to work but a while longer, to save a mite harder, and he will be able to buy what he needs; while at the same time we apprehensively extend the social services and debate whether public works may not be less demoralizing than the dole.[7]

[5] See Thorstein Veblen, *The Engineers and the Price System* (New York, 1921).

[6] From his report to the Commissioners of the Board of Trade in London in 1697 on the handling of the poor.

[7] One result of the existing pattern of the distribution of money income is too little noted, namely, its influence on the kinds of goods produced for con-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

B. Assumptions as to the Consumer—His Nature and Vagaries

3. *The consumer is rational.* This assumption of our culture is a necessary presupposition for most areas of our institutional life. Our form of government, our economic system, theory of criminal responsibility, and many other institutional forms were laid down in an era when human nature was looked upon as calculating rationally and dispassionately before it acted. In this way some semblance of verity is given to such everyday fictions as "the will of the people", "consumer choice", and other attributions of individual responsibility.

Business in its public guise insists that the consumer is rational, that he knows what he wants and what is best for him, and that business is but a mere dependent servitor offer-

sumption. The classical economics assumed a simple condition whereby capital is automatically put to work in the service of consumers in the order of the urgency of the latters' needs. This view looked upon the mass of consumers as dictating when, and on what, production should get under way, and postulated the consumer's always rational progress from the always prior satisfaction of his necessities to his always subsequent excursions into the realm of luxuries. Yet "pecuniary valuation is by no means the work of the whole people acting homogeneously, but is subject very much like the analogous function in politics, to concentration in a class." C. H. Cooley, *Social Process* (New York, 1918), p. 302. In our culture, the promoters of new commodities tend to force them initially into the habits of the wealthy, who are freer than the masses to allocate income to the "novel". Once a new product has "caught on" at the top, the drive of business enterprise—aided by the disproportionately heavy weighting of the habits of the wealthy in mass-habit-forming media of communication like the press, movies and radio, and by the eagerness of human nature for the new and socially approved—is to reproduce these new commodities in any degree of adulteration necessary to reach wider and wider levels of the mass market. As a result, the silk-stocking habit, e. g., becomes obligatory on all women, and the stenographer's annual stocking budget has risen from less than $5 to $30–40.

As the Webbs have remarked, "The present inequality of income conspicuously leads, not only to inefficient consumption, but also to the production of wrong commodities." Sidney and Beatrice Webb, *The Decay of Capitalist Civilization* (London, 1923), p. 26. See, too, in this connection, F. von Wieser, *Natural Value* (New York, 1893), p. 58; also "Raising the Apparel Volume a Billion a Year", *Retailing*, January 31, 1931.

All of which appears to bear out the correctness from the point of view of consumption of Bacon's statement in his essay *Of Sedition and Troubles* (Everyman ed.), p. 46, that "money is like muck, not good except it be spread."

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ing him a range of choices. But business on the job, in its shirtsleeves, knows better and practices differently. The advertising agency and the university school of business were manipulating a realistic theory of human nature at a time when economic theory was still talking about consumer "choice". Great consumer-habit fabricating plants like the J. Walter Thompson Co. and Batten, Barton, Durstine & Osborn, advertising agencies both, do not proceed on the assumption that the consumer is coldly rational; rather, following William James and succeeding psychologists, they have a very realistic view of the strife of reason and passion.

> The cue of passion . . . is to keep imagination dwelling upon those objects which are congenial to it, which feed it, and which by feeding it intensify its force, until it crowds out all thought of other objects. An impulse or habit which is strongly emotional magnifies all objects that are congruous with it and smothers those which are opposed whenever they present themselves.[8]

As Paul Mazur, himself a business man, has pointed out in his *American Prosperity:*

> The community that can be trained to desire change, to want new things even before the old have been entirely consumed, yields a market to be measured more by desires than by needs. And man's desires can be developed so that they will greatly overshadow his needs (p. 24).
>
> Human nature very conveniently presented a variety of strings upon which an appreciative sales manager could play fortissimo (p. 44).
>
> Threats, fear, beauty, sparkle, persuasion and careful as well as wildcat exaggeration were thrown at the American buying public as a continuous and terrific barrage (p. 47).[9]

In attempting a re-definition of the situation covered up by the phrase, "The consumer is rational", one may say some-

[8] John Dewey, *Human Nature and Conduct* (New York, 1922), p. 195.

[9] *American Prosperity* (New York, 1928). See, too, Veblen's acid characterization of the deliberate manufacture of customers by salesmanship in *Absentee Ownership* (New York, 1923), p. 306, n. 12.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

thing like this: Impulse and habit are dominant factors in human action; they tend to flow along in a continuous series of interactions with the environment; disjunctions in this interaction may occasion a pause in action long enough to allow reflective rehearsal of alternatives; but this sensitivity to disjunctions and this power of sustained reflective rehearsal vary enormously from person to person, no person being the continuous rational calculator assumed by Bentham, while the modal person is rational reluctantly, and only in a fragmentary and unreliable sense.

We live in a culture which, thanks to its nominal reliance upon "rationality", "freedom", and the social beneficence of individualism, has developed and tolerates as normal a vast array of institutional disjunctions that are disruptive to coherent behavior. To men in their functional rôles as consumers these operate to confuse reflection because of the very number and incoherence of the choices presented, and to breed urgent personal insecurities which predispose towards blind, spasmodic reaction rather than towards the kind of deliberate reflective sorting of relevant issues that we are wont to call "rational choice". And again, acting under the cloak of an imputed rationality in the consumer, the *Realpolitik* of business enterprise is ready at every exposed point to exploit his insecurities under the guise of proffered choices. During the past two decades the business of urging commercial products upon the public as substitutes for more subtle forms of adjustment to job insecurity, social insecurity, monotony, loneliness, and other situations of tension has advanced to an effective fine art. The tendency of contemporary merchandising is to elevate more and more commodities to the class of such personality buffers. And, as Walton Hamilton has remarked, "Business succeeds rather better than the state in imposing its restraints upon individuals, because its imperatives are disguised as choices."

4. *The consumer is free to choose whether to buy or not to buy.* Absence of coercion is nominally a legal *sine qua non* in trade. Like the attribution of rationality to the consumer, this attribution of freedom is a foundation stone under the entire structure of business enterprise. Seller and buyer must be

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

assumed to stand shoulder to shoulder with equal powers in the market, or a commercial sale would be too grotesque a procedure to be tolerated even by our large human capacity to marry the incongruous.[10]

Freedom of choice in the market implies the consumer's ability to do without a given proffered commodity or, if it is essential, to go elsewhere for it; and it presupposes equal knowledge on the part of seller and of buyer as to the value of the commodity.

As regards the first of these—the ability to take or leave—a number of business and social trends are involved today. Our increasingly urbanized culture is extending markedly the consumer's absolute dependence upon the market not only for luxuries but for even such basic necessities as food. Furthermore, increased communication means that people are getting about more, both physically and psychologically. The former remoteness of the habits of the wealthy is vanishing as their intimate possessions and ways of living are becoming the vicarious daily experience of the masses. This has entailed a sharp rise in the psychological standard of living, a tendency eagerly encouraged by merchandising pressure, as noted above. The result is a marked increase in the number of commodities and services that are no longer luxuries or optional, but actually regarded as essential. The central drive of competitive business is to remove commodities from the optional class and to make them necessities.

As regards the consumer's ability to go elsewhere for an essential commodity, it is true that increased communication is widening the optional sources of retail supply. But business seeks to counteract this wider availability by a series of controls which, as noted in Assumption 10 below, are steadily diminishing the area to which "free competition" applies.

[10] As Laski well remarks, "liberty only begins to operate significantly upon the plane of equality; without the latter, as Hobhouse said, it is a name 'of noble sound and squalid result.' . . . Every liberty becomes a special privilege once, formality apart, there is absence of equal access to its results." Harold J. Laski, *Democracy in Crisis* (Chapel Hill, 1933), p. 207.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Paradoxically, it seems fair to say that the consumer has never been so free to choose as he is today and at the same time so little free, so completely bound is he upon the wheel of an administered market and a commercially controlled standard of living. The necessary legal fiction of freedom to take or leave is preserved at the same time that the consumer must today purchase an unprecedented proportion of his living, and purchase it under a system in which "free competition" is becoming increasingly unreal.

If there is, however, at least some reality in the consumer's freedom of choice in this matter of taking or leaving a given offering, when we come to the second aspect of freedom of choice—equality of knowledge on the part of seller and buyer as to the value of a commodity—the consumer's freedom is largely devoid of even this modicum of reality. The official assumption is that the consumer can judge whether an article is worth the price asked. Under earlier handicraft conditions, from which our assumption of the consumer's freedom of choice stems, commodities were relatively few and their fabrication simple, utilizing simple and familiar raw materials and such everyday household techniques as weaving; and the relation of price to raw material costs and to the time necessary to produce the goods was direct and a matter of neighborhood knowledge. As over against this, consider the predicament of the modern buyer of a vacuum cleaner, a can of paint, an automobile, a quart of motor oil, or any of the scores of commonly used commodities. Raw materials are today not only numerous but subtly blended into alloys and synthetic compounds; fabrication is in the hands of engineers and other technical experts, and the resulting product is ordinarily too complex for the consumer to judge it accurately. How, for instance, is a consumer looking at two shiny aluminum coffee pots—one of 22 gauge aluminum and the other of 17 gauge—to know that, behind the by no means proportionate difference in price, stands a life expectancy of six months for the first and of eight to ten years for the second? The private consumer's actual lack of freedom to choose as regards quality is emphasized by the fact that both government and industrial buyers are increasingly

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

refusing to buy by brand or label or on the say-so of the seller and resort to specifications and laboratory tests in order to establish themselves as equal bargainers with the seller in the market.[11]

5. *The consumer enjoys following his caprice.* This assumption is stressed heavily by opponents of quality grading and informative labeling. Shopping, it is argued, is a kind of recreation, a game in which the consumer trudging from counter to counter and store to store delights to outwit the economic system by spying a "bargain". A. B. McIntyre, president of the Association of National Advertisers, pleaded at the time of the hearings on the so-called Tugwell Food and Drug Bill that such standardizing legislation would constitute "a tremendous set-back to [the consumer's] metaphysical joy in spending money."[12]

"Novelty", "uniqueness", "expressing one's personality", and "whim" are as essential aspects of what Wesley Mitchell has called the "art of spending money"[13] as are "durability", "serviceability", "excellent value for the money", and other less spectacular aspects of consumption. The essential issue here involves the denial of neither type of consideration but rather the recognition of the appropriate sphere of each. Normal persons may not want monotony in the color of clothes, but they do want reliability in their use.

Judgments from superficial aspects of current consumer behavior must be checked and corrected for the extent to which "shopping about" is a consumer pathology, bred in part by the blind conditions of the market and become so habitual

[11] The action of the Federal Government in thus strengthening its freedom to choose through Federal Specifications and laboratory tests has been estimated to enhance its "freedom" to the extent of $100,000,000 saved a year. *Monthly News Bulletin*, Bureau of Standards, Division of Simplified Practice, March 15, 1927. See also National Industrial Conference Board, *Industrial Standardization* (New York, 1929), and K. McIlwain, "The Large Manufacturer as Consumer: A Contrast", *Annals of the American Academy of Political and Social Science*, May 1934.

[12] New York *World-Telegram*, January 31, 1934.

[13] "The Backward Art of Spending Money", *American Economic Review*, June 1912.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

as to be accepted as normal and necessary. Pavlov conditioned a dog to respond positively to a circle and negatively to an ellipse. He then changed the shape of the stimulus by slight stages, the circle thus being made to approach an ellipse. For a while the dog showed discrimination, then discrimination grew worse and finally disappeared altogether. "At the same time the whole behavior of the animal underwent an abrupt change. The hitherto quiet dog . . . presented all the symptoms of a condition of acute neurosis."[14] This experiment suggests that what we call "caprice" in the often erratic shopping about of the consumer may be in part manifestations of tension bred by uncertainty and confusion, like the excited barking, wriggling about, and tearing off of his apparatus that Pavlov's always theretofore quiet dog exhibited under this experiment. No penetrating research has been done on this phase of consumer behavior. It seems a tenable hypothesis, however, that most consumers would welcome the reduction of more and more minor decisions to a standardized routine similar to tying one's shoes in the morning, provided more time and energy could be saved thereby for the nicer major decisions in which one's personality is involved.

6. *Since the consumer's wants are not static, it is the consumer who forces changes in production.* This assumption is commonly linked with the preceding one to justify the driving pressure by business to introduce "new models" and "new fashions" in everything from automobiles, refrigerators, clothing and accessories to styled kitchen fixtures and bath sponges. The real issue here concerns not the fact of change, but the things to which a given change is relevant. In so far as change is relevant to substantial perfections in the functional use-qualities of a commodity or to genuine efforts to enhance taste and beauty (rather than to use them as media for commercial exploitation), we are dealing with an aspect of change which no discriminating person would hamper. The case would appear to be quite otherwise, however, with commercially instigated change relevant primarily to enhancing business profit.

[14] I. P. Pavlov, *Conditioned Reflexes* (New York, 1927), pp. 290-291.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

In the latter case, change tends to become predominantly what Veblen calls the "production of systematized illusions" through the "creative psychiatry" of the commercial agent.[15] Mazur graphically describes this notably active phase of current market procedure as follows:

> Wear alone made replacement too slow for the needs of American industry. And so . . . business elected a new god to take its place along with—or even before—the other household gods. Obsolescence was made supreme. . . . It could be created almost as fast as the turn of the calendar. . . . It is the degree to which the factor of obsolescence has been developed as an art or science of increasing consumer demand, and not the mere existence of obsolescence, that distinguishes the past few years. . . . It is a topsy-turvy world in which we are living, and the retailer is a willing party to the shortening style-life of his products. Under his tutelage a year of style becomes first six months and then three months, and from materials, shapes, uses, and colors, he accepts new changes as often as he decides for obsolescence.[16]

Not only the consumer but industry, as well, finds itself coerced by the giddy competitive pursuit of the new which it has encouraged. Once a pace is hit—the habit, e. g., of an "annual model", established—it becomes difficult to step out of the competitive merry-go-round. The situation in the automobile industry in 1933 is a case in point.[17]

C. Assumptions as to the Relative Rôles of Producer, Retailer and Consumer

7. *Consumption is the end and purpose of production.* It is customary to prefix the words "Of course" to this assumption. It epitomizes, in the contrast between theory and the reality it disguises, the predicament of the consumer in a modern culture dominated by large-scale private capitalism.

[15] See n. 9 above.

[16] *Op. cit.*, pp. 92-97.

[17] The predicament of this industry, in which the commodity "already had everything a reasonable purchaser should want" and the industry itself was eager but helpless to avoid the cost of radical changes in models, is described in "Detroit Spends to Save", *Business Week*, November 10, 1934.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Historically, the supplanting of barter by money-exchange and credit, introducing a compact saveable medium of property accumulation against future needs, wrenched apart the primitive and directly instrumental relationship between production and consumption.[18] So far has this separation gone that today production is operated among us largely for ends extraneous to consumption; and the chaos of competing merchandising pressures and the efforts at limitation of output under N. R. A. and A. A. A. represent the effort of production to force consumption to production's own private ends. Such a situation would seem entirely meaningless to most of the peoples whom we sophisticates are wont to call "savages".

What our culture has done is to shift the emphasis steadily more and more from the making of goods for immediate use by immediately known consumers to the making of goods in order to make money out of a wide, impersonal market which it is necessary to go out and "capture". If business has been fascinated by its speculative chances to expand in a world of fading frontiers and new populations thirsty for "progress", if the political state has embraced this expanding productive power as the source of its power and the key to public welfare,[19] individuals themselves, in their private capacities, have been no less hypnotized by their personal rôles as producers in such a burgeoning world.

People have not been wont to think of themselves as consumers—they were all producers, whether as capitalists or as laborers, engaged in the grand conquest of wealth and the happy days that lay ahead. Laski's remark about the American labor movement, that "the average American was too certain that he would climb out of his class to be willing to

[18] "The economy of the medieval borough—consider only its treatment of food supplies and prices—was one in which consumption held somewhat the same primacy in the public mind, as the undisputed arbiter of economic effort, as the nineteenth century attached to profits." Tawney, *op. cit.*, at n. 4 above, p. 34.

[19] It is no accident that the science of economics began as "*political* economy", for in a very real sense the welfare of nations appeared to be dependent upon productive and commercial aggressiveness.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

build organic expression of its purposes",[20] applies equally to the American in his functional rôle as consumer. Capital and labor fought as rival producers for a larger share in industry's takings; and it is characteristic of labor that right down through the New Deal it and its representatives in Washington have viewed themselves exclusively in their rôle as producers, with little concern for the possibility of maximizing real earnings through bolstering their rôle as consumers.

To be sure, both business and economics have long paid lip service to that economic wraith, the Consumer; but the Consumer has lived only a shadowy existence in the palace of Business and its consort, Economics; and he has been taken for granted in the rôle of a noiseless servant named Demand and, like a servant, bled white of all personality and urgency and reduced to the convenient position of one who can always be counted on to be unostentatiously but infallibly there when needed. Protests there have been. Adam Smith told his generation in his blunt fashion that:

> Consumption is the sole end and purpose of all production; and the interest of the producer ought to be attended to only so far as it may be necessary for promoting that of the consumer. The maxim is so perfectly self-evident that it would be absurd to attempt to prove it. But in the mercantile system, the interest of the consumer is almost constantly sacrificed to that of the producer; and it seems to consider production, and not consumption, as the ultimate end and object of all industry and commerce.[21]

But "perfectly self-evident" or not, neither the developing science of economics nor the statecraft of the century and a half since Adam Smith has proceeded on that principle. In the century following the publication of *The Wealth of Nations* economic theory for the most part took the consumer for granted as a mere willing shadow following production or, like John Stuart Mill, formally dismissed him from the pic-

[20] *Op. cit.*, p. 46.

[21] *The Wealth of Nations* (2d Cannan ed. London, 1920), vol. II, p. 159.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ture.[22] Jevons, in 1871, made what bade fair to be a fresh start with his bold insistence that economic theory should be rewritten so as to accord the place of honor to consumption.[23] But Jevons retained as the basis for his utility analysis Bentham's conception of human nature, and his innovation proved largely abortive. Alfred Marshall, who, following after Jevons, has set the pattern of neoclassical rationalization of economic processes, changed the earlier verbiage employed to account for consumer behavior from "pleasure" and "pain" to "satisfaction" and "dissatisfaction"; but though Marshall wrote in the same generation in which William James was writing his *Principles,* his psychological bases for consumer behavior are closer to Bentham than to James, and the consumer remains a hedonistically motivated robot-appendage to the process of marketing goods. Certain later economists of Davenport's school, aware of the morass into which faulty theories of human nature had led their predecessors, bowed the whole question of the *why* of consumer behavior out of the door and confined their economic theory to prices *after* they had been set in the market by the mysterious concatenation of consumer choices. Sidney Webb and J. A. Hobson protested against the hold of classical economics upon men's thinking, but it remained for Thorstein Veblen to paint in bold strokes some of the realistic dynamics of human nature—lured and chivied by its inner needs, by social compulsions, and by business enterprise—which constitute that seemingly simple and matter-of-fact entity we call "Demand".

Above the base-drum beat of the 1920's could be heard a thin note of querulous dissent: Foster and Catchings wanted to know how long our economy expected it could continue its levitation trick of diverting essential consumer purchasing power to augment production. Chase and Schlink were writing their "Uncle Tom's Cabin" of the abuses of the con-

[22] See the celebrated passage in Mill's *Essays on Some Unsettled Questions of Political Economy,* beginning, "Political economy has nothing to do with the consumption of wealth . . ." (London, 1844, p. 132).

[23] W. Stanley Jevons, *The Theory of Political Economy* (4th ed. London and New York, 1911), pp. 39-40.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

sumer.[24] Consumers' Research was organized and began to publish its bulletins.

The depression has both amplified these scattered criticisms and focused them. Like other depressions, this one got under way with people talking about "something having gone wrong with business". Then followed the second phase, in which business was supposed to have "learned its lesson" and to be putting its house in order in a chastened mood so that "it can never happen again"—and, with luck, "the upswing" would have occurred after a due period of this sober penitence. But the upswing did not come, and public attention moved on to a third phase, in which attention was focused on the consumer as a critical factor in getting the economic wheels turning again. As in the World War, we began by patriotic appeals. Consumers were urged to set their dollars to work to create jobs; the President of the United States repeatedly lent the prestige of his high office to a number of much-publicized endorsements of the goodness of spending in the form of exhortations to the harried consumer to buy a new car or to do other things which, under Mr. Hoover's interpretation of his fiduciary responsibility, doubtless seemed to him directed to the public interest.

Some two years of this rough courtship during the closing half of Mr. Hoover's administration operated to enhance the independence and sophistication of the consumer. The sharp advance in skepticism about advertising, which has today reached a point prompting a concerted "educational" countermovement by the advertising fraternity, and the growth of private consumer testing and information services and of the coöperative movement are signs of this trend. Under the Recovery Act this process of the emergence of the consumer as an independent agent whose ends must be weighed in dealing with the ends of business and labor was evidenced by the establishment of the meagerly powered but significant Consumers' Advisory Board and Consumers' Counsel.

[24] Stuart Chase and F. J. Schlink, *Your Money's Worth* (New York, 1927).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

We have been witnessing since 1933 perhaps the nearest approach to awareness that consumption is the end and purpose of production that our country has experienced since pioneer days. But anyone who watched the bitter massing of business against a new Food and Drug Bill in 1934 would be foolish indeed to assume that the focus of our economy has actually shifted. Nationally we may profess that "Of course, consumption is the end and purpose of production", but we still act, as the past century has taught us to act, on the assumption that production is the *summum bonum.*

8. *Business enterprise creates welfare, and therefore the more business, the more welfare.* The current *de facto* dissociation of production and consumption, discussed under Assumption 7, is also popularly justified by the assumption that business enterprise creates welfare by reason of the fact that it is the source of wages and income. The implicit line of reasoning behind the popular belief that business enterprise creates social welfare comes down from an earlier and different cultural situation. In early medieval times work was overwhelmingly directed to the production of things needed for immediate use, i. e., food, clothing, shelter. Since no man grew or made all the things he needed, his neighbor's work was necessary to him since it contributed to the common store of needed goods under a system of division of labor. Thus the habits of life and thought under the handicraft and coöperative manorial systems tended to build the enterprise of the individual rather solidly into the joint social enterprise. As business superseded the joint work of the manorial era, joint acquisition—or rather contiguous acquisition—was still regarded as *joint* work; and the older idea was carried over in the form of a belief that acquisition of property means not only the production of wealth but, as under earlier conditions, the production of common wealth, i. e., welfare. This carrying over into modern times of the identification of work, property creation, property acquisition, and common welfare results in the business man's being looked upon today "as the putative producer of whatever wealth he acquires. By force of this sophistica-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

tion the acquisition of property by any person is held to be, not only expedient to the owner, but meritorious as an action serving the common good." [25] In the early nineteenth century this identification was given new currency in the mystical doctrine of ethical hedonism, which lives on today in decrepit but venerable dignity.

There is no doubt that some business enterprise creates welfare; and with equal assurance one may say that some business enterprise creates what Ruskin called "illth". The fallacy lies in the sweeping and comfortably undiscriminating generalization that all business creates welfare; for if our modern ways of thought have, by liberating the individual from a social matrix that constrained him to serve his fellows, given us the option of serving ourselves in any degree of exclusiveness we may elect, they have no less surely set business adrift on a wide sea in which social welfare is merely one of several optional ports of call.

The implications of this setting of business adrift as a kind of tramp steamer, with destination subject only to such casual considerations as "the main chance" may suggest, are carried further in the discussion of the following assumption.

9. *The interests of business and of the consumer are identical.* This assumption also appears in such more specific forms as the following: *Business could not exist if it did not strive to serve the consumer; it is to the interest of business to rectify any abuses of the consumer involved in its current procedures, and it may be counted upon to do so.* It is customary in support of such statements to cite the stake of a corporation in the maintenance of the integrity of its private brands, ordinarily built up through years of heavy advertising and other promotional expenditures.[26] And yet, interestingly enough, it

[25] Thorstein Veblen, *The Theory of Business Enterprise* (New York, 1904), p. 291.

[26] In the case of Coca Cola, for instance, the brand name is valued at nearly ten million dollars. The drama of mounting advertising expenditure is revealed by the fact that, commencing in 1919, Lever Bros. had spent in advertising Rinso by the end of 1930 no less than $14,027,000, culminating in an annual appropriation of nearly two and one-half million in 1930. Meanwhile,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

was these very manufacturers of relatively higher-grade nationally branded foods and toilet articles and the more reputable media, such as the Curtis publications, which they support that constituted the main thrust of the attack that defeated the Food and Drug Bill in 1934. The reason was that the establishment of a nationally known brand name removes such a branded commodity somewhat from the pressure of competition; and therefore—in this food and drug conflict, involving flagrant and admitted abuses in an area of vitally necessary consumption—the manufacturers of even reputable nationally branded goods tended to fight to maintain their immediate competitive advantage, rather than to identify their interests with those of the consumer, to "serve the consumer", and to "rectify abuses in the industry". Twist and turn as one will to identify business interest and consumer interest under our type of economy, one is reluctantly forced in the end to the recognition that one is here dealing with two largely distinct things, the one focused upon "keeping out of the red" and returning as handsome a profit as possible to the owners, and the other upon maximizing the use-qualities of goods and services to further the subtler ends of human living. In practice, business tends to "strive to serve the consumer" only in so far as is necessary in order to shake off competitors and to endow a commodity with a real superiority—or more often a slogan superiority—over the field. It then tends to consolidate its gains and build its fences.

Obviously, the modern business man is himself bound upon a most exigent wheel of competition. Nor does it usually do any good in a case like this to seek a personal devil in the situation. To an unparalleled extent today an invisible warning hangs over the desk of every corporation executive, high as well as low: "Get results or get out". Where does the responsibility for corporate action lie—with banking control, stockholders, directors, officers, sales manager or advertising agency? The result is that modern sins are impersonal, and the gravest harms are often inflicted, not by the worst men,

sales of Rinso had been driven up from $349,000 in 1919 to $13,451,000 in 1930. "Three at War", *Tide*, December 1934.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

but by those with virtues enough to boost them into some coign of vantage.[27]

10. *Competition is an adequate safeguard of the consumer; it insures to him the best possible commodity at the lowest possible price.* Theoretically, the consumer has everything to gain and nothing to lose by free competition—provided the consumer's competitive gains are not at the expense of scuttling wages or quality, and provided competition operates to the best efficiency of a given industry as measured in price to the consumer. Actually, however, these are large provisos, for there exists a threefold danger to the consumer in basing a national economy upon an undiscriminating adherence to competition as an adequate regulative principle. Wages or/and quality do tend to suffer; what the consumer is interested in is not competition but his standard of living, and the amount he can buy in certain industries is actually achieved better by monopoly efficiency than by competitive efficiency; and, finally, under modern business enterprise free competition tends not to exist.[28]

In reality, "free competition" has been reduced today to the status of one of the "vital lies" of our culture, notably in the political and economic fields.[29] It is one of the ironies of the N. R. A. that, with its suspension of anti-trust laws ostensibly in the public interest, it promoted an open gold-rush stampede away from competition to types of collusion heretofore practiced surreptitiously by those who could afford the most expensive lawyers.

The consumer's ability to avail himself of the advantages of competition is further curtailed, as noted above, by his inevitable ignorance of the elaborate technicalities of material and fabrication which drastically condition the serviceability of the

[27] See E. A. Ross, *Sin and Society* (Boston, 1907).

[28] For a swift résumé of these conditions see the memorandum of the Consumers' Advisory Board, N.R.A. Release, No. 9,508, January 7, 1935.

[29] See Berle and Means, *The Modern Corporation and Private Property* (New York, 1933), for a discussion of the current concentration of corporate control; and Gardiner Means, "The Consumer and the New Deal", *Annals of the American Academy of Political and Social Science*, May 1934, for a discussion of the weakening of the consumer's control incident to the shift from market to administrative control over such matters as prices.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

commodities he buys wrapped up in cellophane, shiny with nickeling, and otherwise got up to "look right". There may be said to be three major aspects involved in varying degrees in most purchases: price, quality or basic use-adequacy, and personal preference. The consumer can readily distinguish the difference between two prices, but price comparison means little unless quality is defined; and competition is thereby further removed to the nebulous sphere of rival advertising assertions.[30] It was one of the outstanding weaknesses of N. R. A. that it did so little to establish quality pegs to which our residue of "free competition" can be tied.

11. *The retailer is a further protection to the consumer, for he is an expert in the commodities he sells, and his stake in local good will insures that the consumer can, when in doubt, depend on him for the needed technical information regarding the values in alternative goods offered.* In earlier eras, with relatively fewer and more simply fabricated commodities, with small shops in which the owner was both wholesale buyer and clerk selling behind the counter, there was a genuine opportunity for this assumption to represent actual conditions. Today, with elaborate fabrication, branding and packaging, the retailer is commonly almost as ignorant as the consumer of the essential qualities of many of the goods he sells;[31] while, with increase in size of retail units and in chain stores with centralized purchasing, the gap between what the technical buyer knows and what the fourteen-dollar-a-week clerk knows is so wide that repeated tests have shown that very little adequate technical information sifts down to the latter. The very few larger stores that have undertaken the expense of private testing laboratories commonly use the latter as competitive

[30] How competition, in the absence of authoritative quality standards, may entail the surreptitious but drastic debasement of quality in even such staple commodities as men's clothing, shoes, canned goods and bread bearing well-known brand names is revealed in Paul Nystrom's "The Disintegration of Quality Standards", *Advertising and Selling*, June 8, 1933.

[31] For a sharp statement of this point see Max Radin's *The Lawful Pursuit of Gain* (New York, 1931), p. 56.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

buying devices but do not ordinarily pass on the essential facts regarding quality to help the consumer in his choice.[32]

One of the by-products of N. R. A. has been the arousing of leading retailers and their trade associations to a realization of the unhappy position into which the retailer has been sliding, namely, that of becoming a useful appendage to industry. Many industrial codes erected barriers for their own profits at the expense of retailer and consumer—and the retailer has had to bear the brunt of consumer ill will as prices have risen. The net result of this would appear to be a tendency in some retail quarters to regard the retailer and consumer as natural allies against the producer. It is perhaps significant that at a time when the canners are fighting off the government's request for quality grading, it has been the Atlantic and Pacific retail chain which has thrown in its lot with the consumer to the extent of voluntarily employing government grades on its labels as a matter of "good business".

In a democratic culture in which the consumer occupies a position of such relative disadvantage in relation to business, one turns finally to the rôle of the government as a surrogate responsible for "the public interest".

D. Assumptions as to the Rôle of the Government in Relation to the Consumer

12. *Consumption is an essentially personal matter in which it would be un-American for government to interfere.* This appeal to fundamentals is more often made by business in behalf of the consumer than by consumers themselves. Those

[32] One of the problems of modern society is the head-start which business has in bending science to its private ends. See in this connection the protest from the floor at the meeting of the American Psychological Association in 1933, in connection with the report of the Psychological Corporation, as to whether "psychologists by aiding business firms in this respect to sell their wares were not thus aiding them to exploit the public." *New York Times,* September 9, 1933. See also the present great relative poverty of consumer-focused research under such Federal agencies as the Bureau of Standards, as compared with business-focused research. See Consumers' Advisory Board, *Proposal to Develop Standards for Consumer Goods,* N.R.A. Release, No. 16,254, December 1933, and also n. 37 below.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

who use it talk much of "regimentation" and "dictation", of the strangling regulations in the age of Colbert, and of the personal freedom guaranteed to us by the Constitution.[33] Consumers, on the other hand, drowning in a morass of legally free choices, appear to want less legal freedom to flounder and more actual opportunity to know what they are buying. The relation of nominal and actual freedom has been discussed under Assumption 4 above. In an era when the Government, General Motors, General Electric, American Telephone and Telegraph, Montgomery-Ward, and other large corporations are all achieving more freedom by knowing what they are buying rather than by following the say-so of salesmen and manufacturers' labels, the burden of proof would appear to lie heavily with those who assert that there would be a loss of freedom through government interference, e. g., in such matters as the definition of quality grades. No one has ever produced a consumer willing to protest against the loss of the type of personal liberty involved in the more precise grading and labeling of food, drugs, textiles, household commodities, and so on.

13. *Governmental efforts to control consumption have never worked in the past and will not work today.* It is customary here to point to the Eighteenth Amendment, to medieval sumptuary legislation attempted in laws whose rapid succession attests their relative weakness,[34] and to the difficulties encountered by the Tudors and Stuarts in England and by Louis XIV in France in their attempts to regulate consumption. The crux of the problem here is what one means by "control". Arbitrary control in the form of dictations and prohibitions as to what one may consume is hazardous, although the War Industries

[33] For a characteristic statement of this sort by a professor of marketing before the Association of National Advertisers see G. B. Hotchkiss, "Will Standards of Quality Help Consumers?", *Advertising and Selling*, September 27, 1934. A rejoinder to this statement by the writer of the present article appeared in the same journal for December 6, 1934.

[34] See K. R. Greenfield, *Sumptuary Law in Nürnberg* (Baltimore, 1918), and F. E. Baldwin, *Sumptuary Legislation and Personal Regulation in England* (Baltimore, 1926).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Board, through a variety of controls, accomplished this under war-time conditions.[35] But this type of control is not ordinarily contemplated by proponents of larger governmental activity in behalf of the consumer. What they urge is, rather, not so much the control of consumption as the control of conditions hampering intelligent consumption and, in general, a degree of abandonment of *laissez faire* that would not leave the present seeming preponderance of power on the side of business and of confusion on the side of the consumer. In view of the above noted standard practice of government and large industries to use research, specifications and laboratory testing as routine controls over their purchasing, the present well-nigh united front of industry against such things as the grading and informative labeling of consumer commodities amounts to a denial that "what's sauce for the goose is sauce for the gander."

14. *It is unwise for government to interrupt the natural, orderly operation of the market by injecting control from without.* This assumption derives directly from the eighteenth- and early nineteenth-century doctrines of the "order of Nature", *laissez faire,* and Utilitarianism.[36] Though still used by opponents of "more government in business", current experience and business practice amply attest the decrepitude of the argument that the market is either "natural" or "orderly" or "uncontrolled"; for business enterprise, as Veblen pointed out in *The Engineers and the Price System,* lives by introducing controlled discontinuities profitable to itself into the flow of goods to and from machines. And if the "operation of the market" is thus constantly controlled from within in the interest of business men, it is no less drastically interfered with

[35] See B. M. Baruch, *American Industry in the War: A Report of the War Industries Board* (Washington, 1921). For European experience see Sir William H. Beveridge, *British Food Control* (New Haven, 1928), E. M. H. Lloyd, *Experiments in State Control* (New Haven, 1924), M. Augé-Laribé and P. Pinot, *Agriculture and Food Supply in France During the War* (New Haven, 1924), and other volumes in the Carnegie Endowment's *Economic and Social History of the World War.*

[36] See Max Radin's humorous comment in this connection. *Op. cit.,* p. 118.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

from without by what Secretary Wallace terms in his *New Frontiers* "the private ownership of government" by business.[87]

15. *Since consumption depends upon income and income depends upon industry, government can best help the consumer by throwing its resources behind the encouragement of industry.* This has been the implicit official attitude of a long line of recent Republican administrations, culminating in the situation under President Hoover in which the Department of Commerce dominated the thought and action of administrative Washington. If one views our economy with the rough and ready immediacy of the business man, there appears to be ample justification for such an assumption; for in an economy revolving about the price system, stoppage of the source of earning stops consumption as inevitably as heart failure stops life. The only trouble with this pragmatic point of view is that it is just as emphatically true if stated the other way round—production depends upon consumption.

As suggested above, in our type of heavily urbanized culture the bulk of our citizens no longer live on diversified agricultural homesteads affording at least subsistence, but are daily and permanently more dependent upon money purchase for more kinds of things than any previous population has been. In this respect our culture represents the quintessence of the price system. With this high and continuous dependence upon money, we have tried to resolve our hen-or-egg situation, as noted under Assumption 7 above, by plumping wholeheartedly for the priority of production.

We know how this policy works. We saw unbridled production, urged on by Washington, ride down consumption in the 1920's. And the logic of this system of stressing productive welfare appeared clearly in the operation of the N. R. A. codes. In the pursuit of their central purpose of looking

[87] An instance of business appropriation of services in Washington in matters of direct importance to the consumer is the fact that the National Bureau of Standards came to call itself in the 1920's "the agency of the Department of Commerce for research and testing for the industries". *Research Associates at the Bureau of Standards*, Circular of the U. S. Bureau of Standards, No. 296 (1926), p. 4.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

out for production first, they invoked a variety of familiar tactics useful to the owners of industry, such as limitation of production and price control. Instead of reducing scarcity, these moves have in many cases increased it. Instead of increasing consumption through increasing purchasing power, one of the purposes set forth in the preamble to the Recovery Act, they operated for the average worker in the opposite direction. While total pay rolls and farmers' cash incomes rose somewhat more rapidly under N. R. A. than retail prices, per capita earnings of employees on industrial and commercial pay rolls did not rise as rapidly as retail prices;[38] and, meanwhile, large incomes were fattened more than small incomes. The effort of industry to stabilize its profits under a system of putting productive prosperity first tended, in other words, to operate in the direction of stabilizing poverty for the mass of the population.

Obviously, the spectacle of an economy blessed with abundant raw materials and productive powers operating thus under partial governmental sponsorship in the direction of scarcity suggests either that the government's hands should be taken off entirely on the theory that it will run better alone, or that a different governmental policy is called for. There is abundant evidence that our economy does not operate in the public interest when left to its own devices. This leaves the inescapable question before the government as to how, otherwise than at present, it might throw its weight into the scales to bring about a more abundant, rather than a strangled, standard of living—which common sense suggests as the central function of a democracy's economic institutions.

16. *The courts protect the consumer and afford him redress in case of injury.* There is not space here to elaborate this assumption adequately. It is subject to the following limitations. Our Constitution and its derived interpretations buttress the rights of property with considerable thoroughness and rigidity. The result is that ideas of social justice foreign to

[38] See *Prices in Relation to the Consumers' Income* (Statement and charts by the Consumers' Advisory Board at N.R.A. price hearing, Jan. 9, 1935), N.R.A. Release, No. 403, 1935.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

these solidly established rights of the individual to do as he will with his property come into court on the short end of legal precedent and with the burden of proof heavily upon them.[39] As a result, e. g., the courts nullified on grounds of "due process" an act of the Connecticut legislature seeking to protect consumers by establishing as mandatory in Connecticut the United States Bureau of Mines' minimum quality grades of motor oils—used by the federal government and by many state governments when these agencies go into the market to purchase oil for their own use.[40] The man of small means shuns litigation as an expensive luxury to be utilized only under extreme provocation where his prospectively recoverable damages will be large enough to induce an attorney to take the case on a contingent fee basis. And when he does resort to court, the isolated little man is ordinarily both financially and legally in the position of David confronting Goliath—minus the Biblical happy ending; for "Steadily the best skill and capacity of the [legal] profession have been drawn into the . . . service of business and finance."[41] The common law's lagging and tortuous growth has, to be sure, established such civil remedies as those for negligence, fraud, deceit, rescission, and breach of warranty; but these do not pretend to prevent wrongs but, rather, seek only to afford the consumer remedy after he is deceived or maimed. Under the ruling theory of *caveat emptor*,[42] with the courts invoking that wraith, "the ordinary prudent [i. e. rational] man", and with the blurring of responsibility among the several impersonal stages antecedent to a sale, it is normal to this institutional complex as it bears on such a thing as false advertising that "the traditional actions of deceit and warranty as developed by the courts can be of little utility in a campaign against false advertising."[43]

[39] See Berle and Means, *op. cit.*, ch. vi.

[40] Atlantic Refining Co. v. Trumbull, 43 Fed. (2d) 154 (D. Conn. 1930).

[41] Harlan F. Stone, "The Public Influence of the Bar", *Harvard Law Review*, November 1934.

[42] See Walton H. Hamilton, "The Ancient Maxim Caveat Emptor", *Yale Law Journal*, June 1931.

[43] Milton Handler, "False and Misleading Advertising", *Yale Law Journal*, November 1929.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Legislative bases for court action (whether we consider the Sales Act, *Printers' Ink* statute, Food and Drug Act, or the Federal Trade Commission Act) are weakened by the fact that the combined resources of money and talent available to business are usually thrown into the scales against such legislation in its drafting; and—in the absence of an equally well-equipped pressure group on the side of the consumer—they usually succeed in whittling the margin of consumer protection afforded to a relatively toothless minimum. Operating within our going set of ideas as to property and the rights and powers of the individual, the legislative and legal protection of the consumer tends to be theoretically rather than actually extensive.

The courts have not made up their minds as to that legal hope of the consumer, "affectation with public interest", revived by Chief Justice Waite sixty years ago.[44] For fifty years following the Munn case, the Supreme Court continued to extend the application of this concept. The life insurance business was, for instance, declared subject to regulation of rates on grounds of public interest for the reason, interesting for our purposes here, that the cost of insurance is determined by a highly technical process of calculation little understood by the consumer, the latter being at such a disadvantage that competition alone cannot be relied upon to safeguard his interests. The wall between that line of argument and the situation that exists with regard to scores of other current commodities of intricate design, whose price likewise depends upon "a highly technical process of calculation", and with regard to which competition is no sure guide, is as tissue paper. Likewise, in applying the doctrine of public interest to the fire insurance business, the Court stated further grounds for drawing similar conclusions about the public interest inherent in many other current commodities: "the price of insurance is not fixed over the counters of the companies by what Adam Smith calls the higgling of the market" (in how many current commodities does Adam Smith's higgling exist?), and insurance "is practically a necessity to business activity and enterprise"[45] (as are many com-

[44] Munn v. Illinois, 94 U. S. 126 (1877).

[45] German Alliance Insurance Co. v. Kansas, 233 U. S. 414 and 416 (1914).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

modities to the activity of keeping alive and rearing a family in the dependent environment of the modern city).

Commencing in 1927, following a slow extension of the public interest theory over the preceding fifty years, the Supreme Court handed down three negative decisions in rapid succession.[46] In the first of these, Justice Sutherland, writing the majority opinion, held that a theatre, unlike a grain elevator, an insurance company or a public utility, is not affected with public interest but comparable to a food store or a house for rent. Justice Stone, in his dissenting opinion (Holmes, Brandeis and Sanford concurring), held that the majority had misconstrued the issue, the real issue in this case putting it on all fours with other cases in which the regulation of prices had been upheld, in that " the element common to all is the existence of a situation or combination of circumstances materially restricting the regulative force of competition, so that buyers or sellers are placed at such a disadvantage in the bargaining struggle that serious economic consequences result to very large numbers of members of the community." He found that New York City theatre brokers have " virtual monopoly of the best seats ", thus " involving serious injustice to great numbers of people who are powerless to protect themselves."

In the second of these three cases the Court held that employment agencies are not affected with public interest, and hence the state is not warranted in fixing the price the agent charges for his services. Justice Stone (Holmes and Brandeis concurring) dissented, stressing the fact that the users of employment agencies are " necessitous. . . . Here the effort is made . . . to protect from abuses a class unable to protect itself . . . and second, to mitigate the evils which unemployment brings upon the community as a whole." To one with an eye to the " necessitousness " of the consumer with too few dollars for his needs, to the relative helplessness of the consumer in a business-managed market, and to the implications of too meagre purchasing power dissipated in the mistaken buying of

[46] Tyson & Brother v. Banton, 273 U. S. 418 (1927); Ribnik v. McBride, 277 U. S. 350 (1928); Williams v. Standard Oil Co. of Louisiana, 278 U. S. 235 (1929).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

sub-standard goods, the above opens an inviting prospect of possible legal reasoning concerning a host of consumer problems.

In the third case, with Justice Holmes dissenting, the familiar line was followed of declaring against the state fixing of gasoline prices on the ground that gasoline is "one of the ordinary commodities of trade" and hence not affected with public interest.

The negative interpretation of the doctrine of "public interest" has, as every one knows, been heavily reënforced by the recent notable series of decisions on legislation attempted under the New Deal.

17. *The citizen's elected representatives represent him in all aspects of his life, including his consumer function, and can be counted on to make changes as conditions indicate the need for legislation.* Democracy rests on the assumed truth of this theory, and under the simpler cultural conditions which confronted the Founding Fathers there may have been some possibility of the theory's working tolerably well. In our modern cultural scene, however, characterized by massed population units too big to allow contact between voter and elected official, by intricate problems defying simple solution even by highly-specialized expert talent, and by a baffling mass of special interests utilizing lobbies and other pressure agencies to force their ends, the old basis of confidence in the omni-competent, omni-judicious Cincinnatus, who represents everybody in just proportion according to the latters' needs, lives on only as a wistful theory. Actually, of course, in the hurly-burly of practical affairs legislation in the interest of all of everybody's interests gives way to legislation for part of somebody's interests, and this process is rationalized into making sense by assuming that these special interests cumulatively amount to all of everybody's interests, and by the further assumption that if any interest is left out it will make itself felt.

There are two ways in which an interest can make itself felt: by resort to the device of the ballot at election time and by the simpler and more direct method of an organized pressure group or lobby. It so happens that consumers have never

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

become much of a pressure group. We people, by long cultural tradition, regard our consumer problems as private problems which we hope to solve by the orthodox American procedure of increasing our income so that the hair shirt will no longer itch. Under our dominant American philosophy we have been content to view ourselves in our producing function. So hidden are most of the leaks due to wastes in consumption, so antithetical is a business-supported press to the aims of a militant consumer movement, that it seems unlikely that the consumer will ever abstract himself *qua* consumer sufficiently to develop a powerful political pressure group. Meanwhile, the pressure agencies of private business are direct, focused, ably staffed, and abundantly financed.[47]

With all the heavy artillery—including the press, the American tradition of looking out for business first, and the focused and vocal power of business interests in Washington and in the elected representative's home district—on one side, we need not marvel at the dispatch with which consumer proposals by a maverick congressman from a not heavily industrialized section are disposed of before they ever get to the floor of Congress.

In an institutional world bristling with such assumptions as the preceding it is small wonder that one's rôle as private consumer leads the furtive existence that it does. Nor does it appear likely that "the consumer" will become more self-conscious and coherent or less hypnotized by his preoccupation with his rôle as producer in the near future. The undertow of the culture sets heavily in the direction of the individual's struggling to earn more money rather than to maximize the purchasing power of such income as he has. The latter course of action smacks too much of the penny-pinching mode of life which the more articulate element in American life likes to think of itself as escaping from; and reacknowledgement of it

[47] See E. P. Herring, *Group Representation before Congress* (Baltimore, 1929), especially pp. 78-81, and the same author's *Public Administration and the Public Interest* (New York, 1936).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

as a permanent personal design for living still feels too much like a denial of one's heritage as an American and the admission of personal defeat.

It is more congenial to point to the slow trend towards "protection of the consumer"—and to hope. And yet this hope, founded upon the fact of movement and change, popularly identified with "progress", may be more illusory than real. It is the opinion of the writer that a long list of current changes in our American culture—ranging from such large social factors as urbanization to more immediate considerations involving the techniques of production and marketing—is complicating our problems as consumers more rapidly than all the forces of government, education and science are simplifying them. Or, expressing this in another way, we have been becoming illiterate as consumers during the past seventy-five years faster than we have been becoming literate. It appears that while the slow process of liberal reform is adding consumer protections in an arithmetic ratio, the institutional complexities of our American life are cumulating the consumer's difficulties in something resembling a geometric ratio.

In the absence of a coherent consumer pressure group, it is easy to continue to assert that the consumer is a nonentity, and even to urge as some do that "consumer legislation is 'class' legislation and therefore not in the public interest." Actually "the consumer" *is* a nonentity, and so is "the manufacturer", "the retailer", and "labor". All of these are simply abstractions from the totality of rôles which human beings act out in the process of living. The problem our society faces is that of giving whatever weighting may be necessary to each of man's several vital rôles so that the subtler ends of living shall not be thwarted.[48] Siéyès held that the *tiers état* is the Nation. And yet one must be naïve indeed to hold that under a cultural pattern like ours, characterized by the close marriage of productive agencies to the political state and the resulting control of power by the agencies of capital,

[48] See the criterion of "organic welfare" put forward by J. A. Hobson in *Work and Wealth* (New York, 1914).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the interests of the "Nation" are automatically served in due proportion by the reigning institutional system. For *everybody's* interests under such a system always tend to tag along a limping second to *somebody's* interests, and the "somebody" is usually the business man. The recognition of the rôle of consumer as co-partner with business and labor in our economy appears to await a clearer definition of the concept of "the public interest". It is unlikely in the near future that man's rôle as consumer will spontaneously emerge from the welter of the harassed citizen's busy efforts to rescue some modicum of coherence from living. If this rôle is to rise to public attention, it will probably have to be through the action of the agencies of public administration in Washington. The minimum that consumer proponents desire is the implementing in Washington of an agency capable of giving to the problem of the effective spending of our national income the sponsorship which the Departments of Commerce and of Labor now give to the earning of that income. What such an administrative arm of the government could achieve in a culture committed to other ends is highly problematical. The direction of the road-bed is not deflected by coupling on another box car to the train. It is significant, however, that the tentative plans for the administrative reorganization and coördination of the federal services under the Roosevelt administration include at least the consideration of the possibility of aggregating more effectively certain existing scattered federal services in behalf of the consumer.

ROBERT S. LYND

COLUMBIA UNIVERSITY

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ADMINISTRATIVE ADJUDICATION: AN ANALYSIS II *

Some Basic Considerations

IT was suggested in the opening paragraphs of this article that the time is ripe for critics of the administrative tribunal to specify the particular adjudicative powers which they would withdraw from administrative hands. It was the belief of the writer that a careful description of the actual doings of administrative officials might facilitate an understanding as to the exact point where a particular critic would cut short administrative authority. It is hoped that the first part of this article has to some degree accomplished that objective. There remains the task of calling attention to a few of the many considerations which ought to be weighed in framing the decree for divorce of the judicial from the administrative. The considerations to be examined may be put as a series of questions: (1) Is it practicable to try to limit the administrative tribunal to fact finding? (2) Can administrative tribunal or judiciary better be trusted with formulating basic public policy? (3) Is administrative justice less satisfactory than that administered by the judiciary? (4) Are administrative tribunals more subservient to political influence than are judges? [116]

1. *Is It Practicable to Try to Limit the Administrative Tribunal to Fact Finding?*

The administrator encounters legal questions from the moment he is introduced to a governmental problem. If he is to act in accordance with his legal powers and legal obliga-

* The first part of this article was published in The Political Science Quarterly for September 1936.

[116] Constitutional questions which arise out of vesting administrative officials with judicial functions are adequately discussed in R. A. Brown, "Administrative Commissions and the Judicial Power" (1935) 19 *Minnesota L. R.* 261.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

tions, he must either decide for himself or be instructed as to the limits of his authority. The practicability of his going to a court for instruction depends largely upon the necessity of his acting promptly. The bank examiner, bent upon preventing the concealment of documents, can hardly wait for a formal determination that the papers in question are a part of the "affairs of the bank". Where the administrative body proceeds more leisurely, for example, in the revocation of a license or in valuing property and fixing a rate, it would be possible to provide that legal questions, if they can be isolated, must be decided by an independent agency. To require that such questions be referred to the attorney general is not to divest the administrative branch of the function of law determination, since that official is a part of the administrative and not the judicial branch. Such an innovation in policy might result in closer compliance with the law on the part of some agencies. On the other hand, it must be recognized that some administrative tribunals employ legal counsel of substantially greater talent than is likely to be found on the attorney general's staff. To require the administrative agency to accept without question the opinions of the attorney general would doubtless in many instances result in more rather than less of partisan consideration in statutory interpretation.[117]

If questions of law and fact are to be differentiated and the former referred to the judiciary, then provision must be made for the issuance of advisory opinions. Questions of law and questions of fact are merely different facets of a single problem; they cannot be torn apart and the determination of one made a proceeding independent of the determination of the other.[118] Judge and jury may achieve a certain measure of success because they work in immediate coöperation. They sit jointly, not as separate tribunals. The action of one does not wait upon the completion of a formal proceeding by the other;

[117] In so far as fear of administrative adjudication rests upon the conviction that investigation, prosecution, law determination, fact finding, and final decision are too closely joined together, there is justification for suggesting that the attorney general be entrusted with law determination.

[118] *Cf.* first part of this article, 51 POL. SCI. QUAR. (Sept. 1936), 383, 410-12.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

while the jury is hearing the testimony the judge is instructing as to admissibility of evidence. The achievement of successful modern regulation would be defeated if the administrative official could not constantly confer with his legal adviser. If the judiciary is to furnish this legal counsel, it must prepare itself for a rôle far more alien to its traditional behavior than any it has yet been called upon to play.

It seems inescapable that little can be accomplished by reforms based upon differentiation between questions of law and questions of fact. If matters of law determination are to be lodged with the judiciary, then kindred matters of fact must make the same journey. If the judiciary only is to say in the first instance what weight shall be attached to going value, whether book costs are to carry more weight than reproduction costs, whether stand-by equipment is used and useful in the public service, then the judiciary had better make the rate. If the authority to revoke a certificate of convenience and necessity "for violation of any provision of law" involves too much of law determination for independent exercise by the administrative body, then a court of law should be made the tribunal for revocation on that ground; a division of powers is not feasible.[119] Whether one wishes to transfer these functions from administrative branch to judiciary will doubtless depend on the answers which he gives to the following questions.

2. *Can Administrative Tribunal or Judiciary Better Be Trusted with Formulating Basic Public Policy?*

Administrative tribunals have many apologists but few champions. It is frequently stated that administrative adjudication is undesirable as a permanent system but temporarily necessary to meet the demands of expediency. The newness of a problem, it is said, prevents the legislature from formulating definite rules; as a consequence we turn, for a substitute, to the sound judgment of administrative authorities. Implied or expressed in these apologies is the assumption that

[119] Blachly and Oatman seem to contend to the contrary. *Administrative Legislation and Adjudication* (Washington, 1934), 213-16.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

some day the legislature will get around to the formulation of rules which will displace the present freedom of choice enjoyed by the administrator. In the meantime it is hoped that administrative experience expressed in decisions and opinions will cumulate in a body of formulae which will serve as the groundwork for this inevitable legislative enactment, if not furnish the material for outright codification.[120]

It is high time to question whether this hope of ultimate detailed statutory regulation is not largely vain and illusory. There is little reason to doubt that some grants of regulatory authority could very properly be restated in more definite statutory language. But it is just as certain, it seems to the writer, that in many fields of activity the public control toward which the American people are now bent will not soon find expression in detailed legislative enactment. Such a conclusion rests on two convictions: first, that American legislatures cannot be depended upon to enact satisfactory rules; and second, that rules announced in advance are at their best a poor substitute for the judgment of reasonable and intelligent men provided with machinery for thorough investigation.[121]

It is taken for granted in this analysis that the American people will have more rather than less of government in business. There is little reason to doubt that they will continue to move toward the abandonment of the federal system and the nationalization of public control. From a third angle comes the promise of even more worry for the overburdened congressman—the demand for a separate code of regulatory law for each major industry.[122] Such a convergence of de-

[120] E. Freund, "The Substitution of Rule for Discretion in Public Law" (1915) 9 *Am. Pol. Sci. Rev.* 667; and in *The Growth of American Administrative Law* (St. Louis, 1923), 22-24, 38-39.

[121] Dean Pound suggests that vision chasers in every generation pronounce the doom of government by law and herald a régime of government by men. This seems to put the burden of proof upon your humble reporter. R. Pound, "Justice According to Law" (1913) 13 *Columbia L. R.* 696, 700-701.

[122] As early as twenty-five years ago there was some evidence that business men wished a series of regulatory commissions enforcing as many separate bodies of law. See statement of Mr. Taylor Vinson, coal producer, in *Hearing before the Committee on Interstate Commerce*, U. S. Senate, 62d Cong., pur-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

mands for inquiry, study and action by congressmen offers little hope that the nation's lawmakers will soon succeed in formulating detailed rules for the control of industries that will not agree as to what rules they want.

The outlook among state legislatures is no more promising. The demands for state legislation are as many and as insistent as those playing upon Congress. Security programs, labor legislation, the combat of crime, the reform of the basic criminal and civil law—these join with a multiude of other problems to make the legislator feel humble in the sight of God and the League of Women Voters. Add to that the gross unpreparedness of the legislator. Twenty-seven and a half per cent of the American people (24 states) live under legislatures which meet, save for special sessions (extraordinary until depression days), once every two years and sit for 90 days or less. In not one of the latest six sessions did the lower house of the Iowa legislature include as many as five persons who had completed five previous sessions of service; only twice did the senate contain five members with such an amount of experience. The record of the Indiana General Assembly is not appreciably better.[123] Yet the testimony of competent witnesses

suant to S. Res. 98 (1911-12), Vol. I, pp. 26 *et seq.* The Federal Trade Commission in 1919 instituted a policy of negotiating separate trade practice agreements for different industries, and the abandonment of the policy met with the vigorous protest of business men. See the repeated evidence of this in Amendment of Federal Trade Commission Act and Establishment of a Federal Trade Court: *Hearings before Committee on Judiciary*, U. S. Senate, 72d Cong., 1st Sess. (1932), e. g., pp. 17, 18, 20-21, 32, 52-53, 57-62, 122. Advocacy of trade association control, encouraged by the experience of European cartels, supplied further precedent for the agricultural and industrial codes of the present administration. See S. N. Whitney, *Trade Associations and Industrial Control* (New York, 1934), chs. 2-3; B. A. Javits, *Business and the Public Interest* (New York, 1932); G. Swope, *The Swope Plan* (New York, 1931). One finds it difficult to believe that separate codes for different industries are merely a spasm in the convulsions of national recovery. *Cf.* Extension of National Industrial Recovery Act: *Hearings before Committee on Ways and Means*, U. S. House of Representatives, 74th Cong., 1st Sess., e. g., testimony at pp. 96, 181-82, 261, 320, 321-24, 410, 426-27, 456, 534-38, 587.

[123] From data compiled by the writer. *Cf.* C. S. Hyneman, "Legislative Experience of Illinois Law-Makers" (1935) 3 *University of Chicago L. R.* 104-18.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

indicates that only a most unusual legislator will begin during his first three or four sessions of service to sense his way through the mass of proposals thrust before him.[124] Unless we are prepared to supplant our present annual or biennial convention of amateur statesmen with an assembly of competent, experienced legislators, given ample time to hear complaint and effect compromise, we can scarcely expect our dreams of detailed statutory control to materialize.

If the statute-making process, because of the "busyness" or incompetency of the legislator, fails to yield the wanted rules, we may resort to other methods in the drive toward that goal. Rule-making power can be conferred upon administrative agencies; special interest groups can be entrusted with code making.[125] It must be observed, however, that objection to these alternatives is probably just as strong as opposition to administrative adjudication.[126]

The writer's doubt as to the possibility of achieving detailed rules for public control of business rests more particularly on the suspicion that human ingenuity cannot specify in advance the conduct which will later seem socially desirable. Certainly centuries of effort by judges and legislators have failed to give us anything approaching definite rules for deciding what constitutes nuisance, extortionate utility charges, or even negligence. Where rules have been formulated, they have all too

[124] This statement is substantiated by conversations with various persons having served in legislative assemblies and with directors of legislative services, particularly Mr. Charles A. Kettleborough, Director of the Legislative Bureau of the State of Indiana, and Mr. Dewitt Billman, Secretary of the Illinois Legislative Reference Bureau. *Cf.* A. E. Smith, *Up to Now: An Autobiography* (New York, 1929), 71-75; J. A. Lapp, "Making Legislators Law Makers" (1916) 64 *Annals Am. Acad. Pol. and Soc. Sci.* 177.

[125] Neither the nature and extent nor the process of making administrative rules and regulations has been adequately studied in the United States. *Cf.* J. P. Comer, *Legislative Functions of National Administrative Authorities* (New York, 1927); J. Hart, *The Ordinance Making Powers of the President of the United States* (Baltimore, 1925); Blachly and Oatman, *op. cit., supra,* note 119; J. A. Fairlie, "Administrative Legislation" (1920) 18 *Michigan L. R.* 181; E. N. Griswold, "Government in Ignorance of Law—a Plea for Better Publication of Executive Legislation" (1934) 48 *Harvard L. R.* 198.

[126] See, e. g., S. E. Edmunds, *The Federal Octopus in 1933* (Charlottesville, 1932), ch. 2.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

often been dearly bought. A body of criminal law that takes so little account of the individual's subservience to his environment and sentences with so little consideration of his reincorporation into society, is scarcely a glowing tribute to our rule-making capacity. It will be said that these inequities are the price of that treasured certainty which results from the crystallization of definite formulae, but this contention loses something of its force in the face of a school of thought which questions whether rules of law serve so much to constrain the judge as to afford him apologies for decisions arrived at on other grounds.[127] Furthermore, one cannot fail to be impressed by the fact that the features of the American Constitution which excite most admiration are those which impose a minimum of constraint upon judges, for example, the "necessary and proper" and the "due process of law" clauses.[128]

The conclusion set forth in the foregoing paragraphs need not rest solely on armchair reasoning; it finds support in the observations of men who have themselves been forced to grapple with the adjustment of private enterprise to public control. When an attorney, who has both a high reputation for legal scholarship and many years of experience in representing a great public service corporation before a powerful administrative tribunal, asserts the necessity of vesting regulatory authorities with broad discretionary powers, college pro-

[127] The literature of so-called "realistic jurisprudence" is too extensive for citation. See J. Frank, *Law and the Modern Mind* (New York, 1930); the symposium in review of that book in 31 *Columbia L. R.* (1931) 82; L. Fuller, "American Legal Realism" (1934) 82 *Pennsylvania L. R.* 429; and the partial bibliography by F. R. Aumann in 69 *United States L. R.* (1935) 85, note 81.

[128] It may further be pointed out that the announcement of a definite rule of constitutional law by the Supreme Court has in not a few cases been followed by a marked effort to emasculate or annihilate that same principle. Witness, e. g., the vicissitudes of the rule in Cooley v. Board of Wardens, 12 How. 299, 13 L. Ed. 996 (1851), as portrayed in H. W. Biklé, "The Silence of Congress" (1927) 41 *Harvard L. R.* 200. *Cf.* M. L. Sharp, "Movement in Supreme Court Adjudication—A Study in Modified and Overruled Decisions" (1933) 46 *Harvard L. R.* 361, 593, 795; H. E. Willis, "Some Conflicting Decisions of the United States Supreme Court" (1927) 13 *Virginia L. R.* 151, 278; E. A. Albertsworth, "The Rise and Fall of Constitutional Doctrine" (1931) 17 *Am. Bar Assoc. J.* 471.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

fessors may well consider whether their notions to the contrary do not require revision. In his address as president of the Association of Practitioners before the Interstate Commerce Commission, Henry Wolf Biklé said:

> The field in which the legislation is to apply has proved to be too broad to permit the prescription of details, and consequently the guiding rules have to be established with sweeping generality. So in the case of commissions. Congress, for example, cannot exert its legislative power to fix specific rates, and when it has tended to establish a definite standard, as in the famous long-and-short-haul clause, it has made serious trouble for shippers and carriers alike. It is highly probable that an effort to break up the general principle that individual rates—as distinguished from the general body of rates—must be reasonable into a group of subordinate rules indicating what would be the legal tests of reasonableness and unreasonableness would create serious difficulties in the practical and effective operation of the regulatory tribunals. General and indefinite standards seem necessary to provide for that flexibility of judgment which appears to be desirable in a field so closely related to the economic welfare of the country as the field of railroad regulation.[129]

This picture of the future, if accepted, squarely puts the issue: which can be better trusted with the exercise of this broad discretion—judicial or administrative tribunal?

One can only speculate as to the value of legal training and law practice as a background for the administration of modern regulatory policy. The assertion that modern law schools meet this problem by including in their curricula materials dealing with the economic and social problems with which the law is

[129] "Administrative Discretion" (1933) 2 *George Washington L. R.* 1, 8. *Cf.* Mr. Justice Brandeis in Federal Trade Comm. v. Gratz, 253 U. S. 421, 436, 64 L. Ed. 993, 40 Sup. Ct. 572 (1920); Commissioner Osborne of the New York Public Service Commission in Watertown Light & Power Co. v. Watertown Gas Light Co., 1 Dec. 496, 521 (1909); and statements in Stock Exchange Practices in *Hearings before Committee on Banking and Currency*, U. S. Senate, 73d Cong., 1st Sess. (1934), part 15: Richard Whitney, pp. 6582-83; Frank Altschul, pp. 6703-06; G. Herman Kennicut, p. 6868; Frank R. Hope, p. 6901; George O. May, p. 7187. *Cf.* also H. W. Holt, "The Need for Administrative Discretion in the Regulation of the Practice of Medicine" (1931) 16 *Cornell L. Q.* 495, 518-21.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

concerned meets the reply that a great proportion of the graduating class reveals an amazing ignorance of modern economic affairs. However praiseworthy the recent trends in law teaching, the basic objective of instruction is still an understanding of the law—not a picture of the current industrial life. The layman may well insist that a procedure which emphasizes the decisions of judges long dead is not an enlightened method of imparting an understanding of what public agencies must do to effect intelligent control of contemporary industrial strife.[130]

One hears among lawyers the contention that since the law deals with all the sins and most of the virtues of man, lawyers come to have uncommon understanding of the wants and frailties of their contemporaries. Years of contact with the real and imagined grievances of clients, it is said, give the attorney a body of information and a sympathy for conflicting points of view which ideally equip him for the task of fitting ill-defined legislative policy to actual business conduct. The layman who sees so much of dogmatism among his lawyer acquaintances and hears so much of intolerance in the speeches which lawyers are wont to make, may well question whether the cosmopolitan training and experience of the attorney furnish any greater assurance than does the special experience of the business man that discretionary powers will be intelligently used. If it be said that the practice of corporation law and service on the legal staff of business firms happily join the spirit of the law with nice appreciation of business problems, it may be answered that persons who combine these activities are not frequently chosen for judgeships in first instance courts.

Nor can one find adequate answer to the query whether the traditional judicial procedure is well designed for the most satisfactory application of undefined regulatory policy. Notice, hearing, and the right to counsel are regular features of ad-

[130] *Cf.* L. H. Keyserling, "Social Objectives in Legal Education" (1933) 33 *Columbia L. R.* 437; J. Frank, "Why Not a Clinical Lawyer-School?" (1933) 81 *Pennsylvania L. R.* 907; A. H. Frey, "Some Thoughts on Law Teaching and the Social Sciences" (1934) 81 *Pennsylvania L. R.* 463. *Cf.* M. Radin, "The Courts and Administrative Agencies" (1935) 23 *Calif. L. R.* 469, 478.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ministrative adjudication. Judicial technique differs essentially from administrative in one important respect: whereas the judge is supposed to base his decision on the facts voluntarily presented by the litigants, the administrative body often makes an independent investigation and supplements with its own aggressiveness the activity of the parties. There is no doubt much to be said in favor of the aloofness of the common law judge where the issue concerns only the parties to the suit. The incompetence of the one or the other attorney works a limited harm to unrepresented interests. Where, on the other hand, the stakes of the case are vital to a multitude of people who necessarily cannot be represented by counsel of their own choice, there is advantage to be gained from interposition by a governmental agency. It is frequently stated that presentation of evidence prepared by public officials is entirely proper, but that the judge or sitting commissioner should have no personal connection either with the preparation of the evidence or with the official who appears before him. Unless, it is said, some such impersonal relationship as exists between judge and state's attorney, or chancellor and master, is preserved, the judge will favor the evidence presented by the state, and the cards will be stacked in favor of the public interest.[181]

[181] *Cf.* W. D. Guthrie, address in 46 *N. Y. State Bar Assoc. Rep.* (1923) 178; G. Sutherland, "Private Rights and Government Control" (1917) 85 *Central L. J.* 168. On the other hand it is argued by many that regulatory tribunals have been too judicially minded. For assertions that the desire of public service commissions to be fair has hampered effective utility control, see the report of both majority and minority members of the New York Commission on Revision of the Public Service Commissions Law, in Report of the same, *N. Y. Legislative Doc.* (1930), No. 75, pp. 14, 246; testimony of Mr. Norman Thomas and Mr. T. J. Tingley before the same body, in New York Report of Commission on Revision of the Public Service Commissions Law together with Separate Reports and Hearings and Exhibits (Albany, 1930), II, 704; III, 1602; W. E. Mosher and F. G. Crawford, *Public Utility Regulation* (New York, 1933), 34-40; H. Wright, "Primary Defects in Public Utility Regulation" (1935) 15 *Public Utilities Fortnightly* 335, 336. For statements by members of the New York Public Service Commission as to their tendency to impartiality, see the above Report with Hearings, I, 320-21, 541-43; III, 1855-56. As to effect of combining prosecuting and judicial functions in the Wisconsin Industrial Commission, see R. A. Brown, *The Administration of Workmen's Compensation* (Madison, 1933), 28-29.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

To this it may be answered that the cards ought to be stacked in the public interest. It is for the purpose of riding down certain private interests and enthroning others that statutes, courts and administrative officials exist. Broad discretion is vested in judge or administrator either because the legislature is undecided which interests are to predominate, or because it is uncertain as to what public action will best advance those interests. The judge or administrator applying indefinite statutory provisions ought to be something other than impartial referee and arbitrator; fully as important is his task of supplying policy supplementary to that which the legislature provided in embryo. No procedure or technique can be satisfactory which fails to provide the judge or administrator with adequate understanding of the various interests likely to be affected by alternative decisions. There is ground for contention that the aloofness expected of judges is certain to defeat this end. It is highly doubtful that the presentation of evidence in formal combat, no matter how specialized the jurisdiction of the court, can be depended upon to indicate the direction in which social policy should be pointed. The one who is to mold policy should have intimate contact with public investigating agencies and enjoy constant consultation with all parties who can guide him to the adoption of intelligent conclusions. This seems to be of the very essence of administrative action, the very antithesis of judicial.[132]

There is still other ground on which the judiciary may be preferred as the agency for adjusting ill-defined public policy to private conduct. Certainty is of prime importance in

[132] It was perhaps with this in mind that the Senate Committee on Interstate Commerce in 1913 asserted: "it [the Committee] is unwilling to repose in that [United States Supreme] court, or any court, the vast and undefined power which it must exercise in the administration of the statute under the rule [of reason] which it has promulgated. It substitutes the court in the place of Congress, for whenever the rule is invoked the court does not administer the law, but makes the law. . . . The people of this country will not permit the courts to declare a policy for them with respect to this subject." *Sen. Rep.* no. 1326, 62d Cong., 3d Session (1914), Serial A 6332, reprinted in 51 *Cong. Rec.*, part 11, pp. 11381-11384. See for contrary attitude, G. H. Montague in Handler, *The Federal Anti-Trust Laws: A Symposium* (New York, 1932), 32-34.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

modern life; the business man must have reasonable assurance as to what will be pronounced lawful before he can confidently proceed about his affairs. Judges, it is commonly said, explain their decisions in language which indicates their probable action in future cases. These are published where counsel and client may read. Because of the relative certainty that later decisions will comport with the promise of past language, runs the argument, investments can be made and projects launched. Administrative tribunals, on the other hand, are said to show little respect for precedent. Their régime is characterized as a government of men and not of law. And where governmental action is uncontrolled by law, doubt and hesitation are seen to mark business dealings.[133]

There is perhaps more of fallacy than of truth in this analysis. That investments, contracts, and other business conduct must wait upon assurance of ultimate vindication is readily admitted. It seems to the writer, however, that administrative adjudication offers quite as high a degree of dependability as does judicial application of wide discretion. While the first instance courts of the federal government record written opinions, silence is the rule among state tribunals.[134] Where final determination of legality is by the jury, written opinions can give no promise as to future action.[135] Even where decisions are by judges and opinions are published, the attorney finds little enough comfort in cases arising under indefinite statutory provisions. To realize this one has but to read cases

[133] *Cf.* R. Pound, "Justice According to Law" (1913) 13 *Columbia L. R.* 696, 14 *ibid.* 1, 12 *et seq.* (1914).

[134] But observe that with the exception of certain administrative tribunals (e. g., Decisions of the Department of Interior relating to Public Lands, Interstate Commerce Commission Reports, Federal Trade Commission Decisions) and the tribunals on the borderline between administrative and judicial (e. g., Court of Customs and Patent Appeals Reports, Cases decided in the Court of Claims), the opinions of lower federal tribunals are printed at private, not public, initiative and expense. New York, in its Miscellaneous Reports, offers an exception to the rule that the opinions of state first instance courts are not printed.

[135] A campaign to divest state administrative officials of adjudicative work would doubtless throw many questions into the ordinary judicial procedure unless constitutional provisions were amended.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

involving "combinations in restraint of trade", injuries "arising out of and in the course of employment", or the constitutional questions of burden on interstate commerce, non-delegation of powers, and due process of law.

Administrative tribunals are apparently reluctant to assert a doctrine of *stare decisis*. They are, however, liberal in their citation of precedent and in some cases at least have made substantial progress toward the substitution of rule for discretion.[136] More important than this, however, is the fact that interested parties can consult directly with the administrative official. While the latter cannot guarantee what he will decide in a formal case, he can assure the business man that if the facts are later found to be as indicated in conversation, there is every reason to anticipate a particular order. Both the testimony and the practice of business men seem to indicate that direct consultation with governing officials is believed to be a more reliable way of predicting later action than the indirect method of legal counsel searching the written opinions of judges for a key to the future conduct of still other judges.[137]

3. *Is Administrative Justice Less Satisfactory than That Administered by the Judiciary?*

Administrative adjudication is by no means confined to the interpretation and enforcement of indefinite statutory provisions. Workmen's compensation claims and suits to recover

[136] The writer, in reading virtually all, if not every one, of the published opinions of the New York Public Service Commission and its predecessor from 1907 to 1932, found not one case in which the Commission positively stated or gave reason to believe that it decided as it did because of a previous decision. It is the custom of that Commission, however, to cite its previous decisions and opinions relevant to the case at hand. *Cf.* I. L. Sharfman, *The Interstate Commerce Commission* (New York, 1931), II, 367 *et seq.*

[137] See, e. g., the testimony of Seth Low in the *Hearing before the Committee on Interstate Commerce, supra*, note 122, at pp. 520 *et seq.*, 536 *et seq.*, and of Elbert H. Gary, *ibid.*, 812-13; and the report of the legislative committee of the Chicago Association of Commerce in Interstate Trade: *Hearings before Committee on Interstate Commerce*, U. S. Senate, 63d Cong., 2d Sess. (1914), vol. I, 164. To the contrary, see testimony of Charles F. Mathewson, *ibid.*, 60 *et seq.* *Cf.* G. H. Montague in M. Handler, *op. cit., supra*, note 132, at pp. 26-31.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

damages for loss incurred in shipment of goods, like many other actions before administrative tribunals,[138] arise under provisions of law quite as definite as those which govern damage suits in the regular judicial courts. The reason for utilizing administrative agencies for such litigation seems to be a desire for quick and low-priced justice. Ponderous trial procedure, sufferable where high stakes are at issue, proved intolerable where the costs of litigation promised to tower above the gains of a favorable award. The justice of the peace, as a device for handy, quick and economical justice, was tried and found wanting.[139] The legal profession resisted efforts to institute a summary procedure in the ordinary first instance courts.[140] State assistance to the financially incompetent caught in litigation before the regular judicial tribunals served to palliate but not to correct the shortcomings of judicial administration.[141] The legislature, with wide popular approval, turned to administrative justice.

The reasonableness of the demand that justice be supplied quickly and at low cost can hardly be denied. The present movement toward arbitration and declaratory judgments indicates that powerful corporation, as well as economic underdog, contemplates formal trial with little pleasure.[142] If lawyers

[138] *Cf.* 51 POL. SCI. QUAR. (Sept. 1936), 386.

[139] *Cf.* P. S. Sikes, "Judicial Administration in Mississippi" (1933) 6 *Mississippi L. J.* 109; C. H. Smith, "The Justice of the Peace System in the United States" (1927) 15 *California L. R.* 118; R. S. Keebler, "Our Justice of the Peace Courts—A Problem in Justice" (1930) 9 *Tennessee L. R.* 1.

[140] H. Harley, "Conciliation Procedure in Small Cases" (1926) 124 *Annals Am. Acad. Pol. and Soc. Sci.* 91-97; R. H. Smith, *Justice and the Poor* (New York, 1919), ch. 8.

[141] Smith, *op. cit.*, chs. 15-25; J. S. Bradway and R. H. Smith, "Legal Aid Work" (1926) 124 *Annals Am. Acad. Pol. and Soc. Sci., passim;* J. M. Maguire, *The Lance of Justice* (Cambridge, Mass., 1928).

[142] *Cf.* J. H. Cohen, *Commercial Arbitration and the Law* (New York, 1918), chs. 1-2; "Synthetic Courts: A Symposium" (1934) 83 *Pennsylvania L. R.* 119-245, particularly the article by C. F. Taeusch, pp. 147 *et seq.;* A. C. Lappin, "The Case of Arbitration vs. Litigation" (1934) 39 *Commercial L. J.* 196; P. G. Phillips, "The Function of Arbitration in the Settlement of Industrial Disputes" (1933) 33 *Columbia L. R.* 1366; P. G. Phillips, "A Lawyer's Approach to Commercial Arbitration" (1934) 44 *Yale L. J.* 31; H. F. Lusk, "Arbitration of Business Disputes" (1932) 7 *American Law School R.* 648.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

continue to resist the demand for summary procedure in courts of law, they may expect lay legislatures to make administrative justice accessible for additional classes of controversy. Indeed, the success of administrative procedure raises the question whether any foreseeable amount of judicial reform will stay the movement of litigation from judicial chambers to commission hearing room. To the advantages of speedy and economical justice some administrative tribunals have added those of aggressive justice. Writing about workmen's compensation adjustment, Reginald H. Smith says:

> The commissions proved resourceful and without much lost motion proceeded to create a remarkably efficient administrative machine. Before long they had from 75 per cent to 95 per cent of all claims automatically adjusting themselves through direct settlements between employee and insurer, every agreement being audited and approved by the commissions acting through examiners. Through a system of reports and even by following newspapers they endeavored to check every accident and to see that the injured persons were informed of their rights. As to contested claims, the commissions did not sit back and await formal applications for formal hearings. They cast about for ideas, studied the literature of law reform, and quietly appropriated various suggestions. . . . Often they send out investigators to interview witnesses and ascertain facts. Commonly they have their own physicians upon whom they can rely for accurate testimony as to the extent of disability.[143]

These are rosy words, but they are amply supported by the observations of others. Mr. A. J. Altmeyer points out that in twenty years of experience, the Wisconsin Industrial Commission has been subjected to judicial review in respect to only 948 of its 36,286 compensation awards; and in 78 per cent of these (741 cases) the action of the commission was upheld.[144]

[143] R. H. Smith, "Administrative Justice" (1923) 18 *Illinois L. R.* 211, 213. *Cf.* the excellent account of the functioning of the Wisconsin Industrial Commission by Professor Brown, cited *supra*, note 131.

[144] A. J. Altmeyer, *The Industrial Commission of Wisconsin* (Madison, 1932), 84-98. *Cf.* C. G. Haines, in C. G. Haines and M. E. Dimock, *Essays on the Law and Practice of Governmental Administration* (Baltimore, 1935), 127.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Little can be gained from a statistical comparison of judicial endorsement of the Industrial Commission with judicial approval of the decisions of lower courts. The kinds of cases submitted for review are different, the grounds on which reversal may be entered are not identical, and the circuit court, as well as the supreme court, figures in the review of compensation cases. Nevertheless, it is interesting to observe that while the Wisconsin Industrial Commission was sustained in 78 per cent of the awards which were reviewed by circuit and supreme courts between 1911 and 1931, only 59.9 per cent of the judicial decisions which were appealed to the supreme court during the judicial year 1932-33 were affirmed without modification.[145]

It is mainly because of the widespread satisfaction with the performance of workmen's compensation commissions that students and men of affairs are pointing to administrative procedure as the most promising remedy for the failure of the courts to deal successfully with motor accident claims.[146]

The excellent achievement of workmen's compensation commissions gives no assurance that other types of administrative tribunals will attain a like measure of success. For years the Interstate Commerce Commission recommended that it be relieved of the task of making reparations awards;[147] on the other hand the New York Public Service Commission expressly requested that it be allowed to adjudicate claims of overcharge.[148] The cautious student may at least raise the question

[145] R. V. Campbell, "The Work of the Wisconsin Supreme Court for the August 1932, and January 1933, Terms: Statistical Survey" (1933) 9 *Wisconsin L. R.* 5.

[146] *Cf.* H. S. Marx, "The Curse of the Personal Inquiry Suit and a Remedy" (1924) 10 *American Bar Assoc. J.* 493; R. A. Brown, "Automobile Accident Litigation in Wisconsin: A Factual Study" (1935) 10 *Wisconsin L. R.* 170; *Report by Committee to Study Compensation for Automobile Accidents* (New York, 1932); and symposium on the same in 32 *Columbia L. R.* (1932) 785; P. H. French, *The Automobile Compensation Plan* (New York, 1933).

[147] Sharfman, *op. cit., supra*, note 136, II, p. 387, note 64.

[148] "The Commission recommends that it be clothed with power to award damages to a complainant on finding that he has been subjected to the payment of unlawful or unreasonable charges by a carrier. . . . It is of great importance that the Commission should have power to adjust such cases and so protect

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

whether it is wise to lodge the adjudication of private suits in a body charged with the formulation of important policy. This leads to the last of the four questions posed for answer.

4. *Are Administrative Tribunals More Subservient to Political Influence than Are Judges?*

Men who attempt to fix public policy can hardly escape attack in the public forum. Judges cannot escape criticism if they venture to pronounce upon the constitutionality of controverted legislation; no doubt they are appreciably influenced in reaching their conclusions by the evidence of widespread wants and prejudices. Administrative officials, charged with writing more definite policy into indefinite statutory language, are doubtless attentive to current popular demands. The rate of return for utilities will probably vary as public scrutiny of rate-making policy fluctuates. The revocation of a license may well depend on the degree of public indignation at the conduct of the licensee.[149]

Perhaps it is safe to say that administrative officials are more likely to be affected by the shifting winds of opinion than judges would be if charged with enforcing the same statutory provisions. Definite knowledge on that point would not solve a pressing question of competing values. The victim of changing standards has a genuine grievance; he may well insist that unpredictable control is indecent government. Others will assert that policy must change, that discretion was provided in order to permit the satisfaction of current wants. The board of overlapping terms, insulated against removal, was devised as a means of assuring some continuity of regulatory policy. Now comes a generation to insist that we have too much of continuity, to insist that regulatory tribunals must use their

both shipper and carrier." Thirteenth Annual Report of The Public Service Commission, Second District (1919), vol. I, pp. ix-x.

[149] *Cf.* Jurisdiction of United States District Courts: *Hearings before Committee on Judiciary on S 752*, U. S. House of Representatives, 73d Cong., 2d Sess. (1934), 182 *et seq.*; E. P. Herring, "Special Interests and the Interstate Commerce Commission" (1933) 27 *Am. Pol. Sci. Rev.* 899, 908-13; Herring, "Social Forces and the Reorganization of the Federal Bureaucracy (1934) 15 *Southwestern Social Sci. Q.* 185, 196.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

powers in conformity with the changing program of the dominant group.[150] Basic philosophies of government will determine whether one prefers continuity or fluctuation.

Administrative powers may also be used for personal and partisan advantage. Friends of a particular commissioner of safety may violate fire ordinances without fear; Republicans will be unable to obtain liquor licenses in one city or another; a generous campaign contribution may bring a doubtful issue of securities within the requirements of the blue sky law. It is no doubt in large part because they want such favoritism that the American people run their government on a spoils basis. Civil service reform, if the citizenry can be got to tolerate it, offers promise of reducing the partisanship in administrative adjudication. Transfer of authority to the judicial courts will no doubt work improvement in numerous instances but, on the whole, it seems to the writer, offers little promise of relief. The justice of the peace, historic finger of the judiciary, is probably as prone to favoritism as administrative officers.[151] The regular courts have been found unsatisfactory for much of the governmental control of property which they have historically exercised. Indeed, any proposal to shift control to the judiciary will be countered by the contention that the judiciary is already charged with too many functions—that the movement must be from courts to administrative bodies.[152] Lastly, it must be pointed out that in many parts of the country the judiciary is distinctly in politics. No doubt this partisanship is in the main confined to the inferior courts, but it

[150] This is implicit in the movement for state administrative reorganization which since 1915 has in many states brought the control of banking, insurance, factory inspection, etc., under the administration of single appointive officials relatively certain to leave office at the end of the governor's term. Mr. E. P. Herring now suggests that perhaps the advantages of a unified administrative program during the incumbency of a particular political party justifies the substitution, in the national government, of single politically responsible officials for present relatively independent commissions. "Politics, Personalities, and the Federal Trade Commission" (1935) 29 *Am. Pol. Sci. Rev.* 21, 29-35.

[151] See citations, *supra*, note 139.

[152] *Cf.* C. B. Nutting, "Non-Judicial Functions of the District Court in Iowa" (1934) 19 *Iowa Law R.* 385.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

is these lower tribunals that must assume the adjudicative work which is taken from the administrative branch. If courts of specialized jurisdiction are to be created, their selection and tenure can perhaps be made freer of partisan interest than is now true of many first instance courts. Nevertheless, when a law professor can make the following statement about the judiciary in the second city of the land, one is inclined to doubt that that branch of the government offers any immediate hope of improving the enforcement of modern regulatory control. The process of selecting judges in Chicago, writes Professor Charles T. McCormick,

> is strictly one of trading, modified only to the extent of placing or retaining on the ticket a seasoning of able and respectable men, so as to make the mixture not too distasteful. There is so little general interest in the judgeships among the voters, that the parties have found by successive experiments of trial and error, that they can go to extreme lengths in the trading process without creating any danger of revolt, since the opposite party from similar motives makes only a like offering. The trading proceeds on the basis of assigning the places in approximate rotation, to the party chieftains of the various wards, who are called—God save the mark—the "sponsors" of the judges whom they successfully espouse. The result is that personal friendship or kinship of the aspiring judge with the ward leader, the aspirant's party services in the ward, the fact that he is of a particular racial extraction, and his past contributions to the party needs, are predominant considerations. . . . Such a system of back-stairs selection of judges by party leaders in the wards as a matter of ward patronage, yields, as it could only yield, a crop of mental and moral mediocrities.[153]

[153] C. T. McCormick, "A Proposed Reorganization of the Illinois Judiciary" (1934) 29 *Illinois L. R.* 31. *Cf. Illinois Crime Survey* (Chicago, 1929), 417-19; R. Moley, *Tribunes of the People* (New Haven, 1932), chs. 2-3; Speech of Senator George W. Norris, 78 *Cong. Rec.*, Part 2, Feb. 6, 1934, pp. 2031 *et seq.*; Final Report of Samuel Seabury to the Supreme Court, Appellate Division, First Judicial District, in the Matter of Investigation of the Magistrates' Courts (New York, March 28, 1932).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Closing Observations

There is little reason to doubt that the continuance of a capitalist order in the United States will be at the cost of extensive public control of private enterprise; governmental regulation breeds its own kind. There is just as little reason to doubt that this public control will involve substantial and significant limitations on the earning power of property and on freedom of action in the management and disposition of property. In some cases the controlling public policy can no doubt be formulated in fairly definite statutory language. For many types of control a formal trial procedure will doubtless serve to compress private activity within the mold set by statute. The willingness of lawmaking bodies to utilize the judiciary for the enforcement of these restraints will surely depend on the public conviction that the procedure followed in courts will yield the data requisite for intelligent decisions and will provide for the final disposition of cases with dispatch and at low cost to the parties involved. Practicing attorneys are at present the chief spokesmen for the utilization of judicial courts in the control of persons and property; if they wish their appeal to be effective, they must convince the molders of opinion that judicial justice is blind only to personalities—is keenly discerning of events and motives. Here actual procedural reform will speak more loudly than noisy exhortation.

Much of public control will necessarily be effected through the exercise of wide discretion on the part of enforcement officers. The judiciary seems little adapted for such a rôle; administrative agencies offer promise of greater satisfaction. If there is reluctance to vest so much policy making and enforcing power in one tribunal, it will be possible in some cases to require the administrative officer to refer certain specified questions of law to the judiciary. The judge will have to express himself in these cases in the form of advisory opinions; instruction to the administrative body cannot wait upon the submission of a formal controversy.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

In certain instances the effect of administrative decisions can be suspended until they have received judicial approval. This procedure will be feasible only in cases where leisurely action is not objectionable, and it will meet public approval only if judges are willing to read into the law which governs their actions a sympathy for the dominant wants of the times.

On the whole, it seems that the principal function of the courts in modern industrial and occupational control will be a review of the completed and effective action of the administrator. The regular judicial tribunals may be used for this purpose, or a separate set of courts may be provided. The French people have made this reviewing function virtually the sole business of an elaborate system of courts.[154] Various persons have recommended the creation of a similar system in the United States and Great Britain;[155] a British commission of inquiry recently rejected the proposal as not in accord with Anglo-American notions of the supremacy of law.[156] It seems patent to the writer that American judges in courts of last resort have very generally failed to appreciate the practical administrative difficulties involved in modern public control of private initiative. Their action in specific cases of review has all too often been lacking in statesmanship if not in intelligence. Unless judicial review becomes more intelligent, ideals of the supremacy of the law may be forced to recede before public insistence upon effective governmental action. A system of specialized reviewing courts may prove a happy compromise.

No matter what the rôle of the judiciary, it is imperative that the personnel, organization and procedure of American administrative tribunals be improved. Administrative officials must be chosen with greater care and rewarded for com-

[154] L. Duguit, "The French Administrative Courts" (1914) 29 POL. SCI. QUAR. 385.

[155] *Cf.* Report of committee of American Bar Association, 59 *Rep. Am. Bar Assoc.* (1934) 539-64; Blachly and Oatman, *op. cit., supra*, note 119; N. Ghose, *Comparative Administrative Law* (Calcutta, 1919), 632-33; Committee on Ministers' Powers: *Report* (Command 4060; London, 1932), 110; Radin, *op. cit., supra*, note 130, at pp. 478-81.

[156] Committee on Ministers' Powers, *op. cit., supra*, note 155, at pp. 110, 118, 135.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

petent public service. In many instances, no doubt, tasks of investigation will need to be formally separated from tasks of adjudication. Competent legal counsel will have to be retained and constantly consulted. Investigating and hearing procedure will require material revision. Appeals within the administrative branch may prove desirable.

Generalizations as to needed administrative reform will enjoy a very limited usefulness; the advancement of intelligent public policy will depend much more upon the results of inquiries similar to those undertaken by Patterson, Scharfman, Altmeyer, Dickinson, Herring and Brown.[157] Diligent effort along these lines may enable us ultimately to force responsiveness and responsibility upon the bureaucracy, which seems to be the price exacted of a people who wish to live in physical comfort.

CHARLES S. HYNEMAN

UNIVERSITY OF ILLINOIS

[157] E. W. Patterson, *The Insurance Commissioner in the United States* (Cambridge, Mass., 1927); I. L. Sharfman, *op. cit., supra*, note 136; A. J. Altmeyer, *op. cit., supra*, note 144; J. Dickinson, *Administrative Justice and the Supremacy of Law in the United States* (Cambridge, Mass., 1927); E. P. Herring, *op. cit., supra*, notes 149, 150; Herring, "The Federal Power Commission and the Power of Politics" (1935) 15 *Public Utilities Fortnightly* 223, 292; and R. A. Brown, *op. cit., supra*, note 131.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ENGLISH LOCAL GOVERNMENT FINANCE UNDER THE LOCAL GOVERNMENT ACT OF 1929[1]

THE Local Government Act of 1929 has brought fundamental changes in the fiscal relations of central and local governments in England. It is true that grants in aid from the general exchequer revenues, which have long been accepted as an integral part of the British financial system, have been entrenched more firmly than ever by the 1929 legislation. But the "percentage grant" has been publicly repudiated, together with the principle on which it is based. The percentage grant is allocated to a specific service and varies with local expenditures for that service. The new standard is a fixed, block grant, distributed on a weighted population formula, which is designed to equalize local resources.

The English local financial system is unique, first in the extent to which it depends on grants in aid from the central government, and second in that local authorities have just one tax at their disposal, the local rates. These rates are levied on the occupier of real estate in proportion to the rental value of the property occupied. This originally offered a broad base, but the base has been narrowed from time to time. Personal property was specifically exempted as early as 1840, and in 1848 agricultural land and railway rights of way received three-quarters exemption from certain rates. Later, by the derating acts of 1896 and 1923, agricultural land obtained three-quarters exemption from all rates. And the Local Government Act of 1929, through its derating provisions, has given complete exemption to agricultural land and three-quarters exemption to mines and factories and transport property. In the case of railway rights of way this comes to a fifteen-six-

[1] The writer gratefully acknowledges a grant in aid from the Social Science Research Council, which greatly facilitated this study.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

teenths exemption for certain rates, since this property is valued at 25 per cent of its former 25 per cent valuation. Meanwhile local government costs have shown the same tendency to expand in England as elsewhere, and taxpayers the same tendency to protest. These protests have not gone unheeded. But relief has come in the form of derating, grants in aid, and the transfer of local functions to national administration, rather than in the form of new and independent sources of local revenue.

The first percentage grant, introduced in 1835 to meet half the cost of criminal prosecutions at assizes and quarter sessions, seems to have been instigated by demands for rate relief.[2] And the series of grants made in 1845 toward the cost of poor relief and the administration of justice were designed to lower rates on agricultural land, thus paving the way for the repeal of the corn laws.[3] But grants could be made to serve other ends, and an element of national control is to be found in grant provisions even when rate relief is the main objective.

The impetus accounting for the rapid expansion of the grant system during the latter part of the nineteenth century was central control rather than relief of ratepayers. Rates, in rural districts at least, were lower in 1890 than in any preceding period in the century,[4] and even in urban regions rateable values were for the most part keeping pace with growing demands. It was not until after the war that rating relief again became a serious issue. It is true that the increasing contributions of the national government were partly responsible for keeping rates down, and ratepayers were not unconscious of the gain, but the initiative came from the central government, which was steadily imposing new duties and higher standards on local authorities and making these increasing obligations and controls palatable by offering to meet some fraction of the cost.

The accepted form of grant became the payment of a fixed percentage, usually 50 per cent, of approved local expenditures

[2] *Report of the Select Committee on the County Rate, H. C. 542*, 1834, pp. iii–iv.

[3] *Report of the Royal Commission on Local Taxation, 1899, C. 9528*, p. 12.

[4] H. H. Fowler, *Report on Local Taxation, H. C. 168*, 1893, p. xxxv.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

for a specified service. It was not difficult to persuade local authorities to embark on new undertakings when half, or more, of the cost was met from national funds. And national standards of service could not be ignored as long as central agents had the power to withhold these funds when their specifications were not met.

TABLE 1

AMOUNT OF GRANTS COMPARED WITH AMOUNT OF NATIONAL AND LOCAL TAX INCOME FOR SPECIFIED YEARS FROM 1842–43 TO 1933–34 [a]

(in million of pounds)

Year	United Kingdom			England and Wales		
	National tax revenue	Grants	Per cent of tax revenue to grants	Local rates and grants	Grants	Per cent of rates and grants from grants
			Pre-war			
1842–43.....	50.2	.6	1.3	9.1	.2	2.7
1852–53.....	53.0	1.3	2.8	10.5	.6	5.4
1872–73.....	65.9	2.4	3.7	19.7	1.1	5.6
1887–88.....	75.7	5.1	6.8	31.5	4.3	13.6
1891–92.....	75.3	10.9	14.5	37.3	8.8	23.6
1903–04.....	129.1	19.2	14.9	69.0	16.1	23.3
1913–14.....	163.0	27.1	16.6	94.4	23.1	24.5
			Post-war			
1918–19.....	784.3	34.3	4.4	115.9	31.2	27.0
1919–20.....	999.0	56.3	5.6	155.6	50.0	32.1
1920–21.....	1,031.7	71.3	6.9	219.6	67.8	30.9
1921–22.....	856.7	88.2	10.3	249.5	78.6	31.5
1922–23.....	774.7	87.6	11.3	234.1	76.8	32.8
1923–24.....	718.1	90.7	12.6	223.2	79.9	35.8
1924–25.....	689.7	94.2	13.7	224.8	82.8	36.8
1925–26.....	684.5	97.5	14.3	234.0	85.4	36.5
1926–27.....	663.9	100.7	15.2	247.3	88.3	35.7
1927–28.....	693.4	104.5	15.1	258.1	91.4	35.4
1928–29.....	685.3	108.3	15.8	259.8	93.8	35.9
			Local Government Act of 1929			
1929–30.....	676.6	125.3	18.5	270.6	114.3	42.3
1930–31.....	704.2	155.1	22.1	288.6	138.7	48.1
1931–32.....	733.0	151.4	20.7	283.8	135.5	47.9
1932–33.....	725.0	145.0 [b]	20.0	272.9	126.6	46.4
1933–34.....	709.1 [c]	147.1 [b]	20.7	279.5 [c]	131.8 [c]	47.2

[a] *Statistical Abstract of the United Kingdom.*

[b] Partly estimated.

[c] *Rates and Rateable Values 1933–34* and *Finance Accounts of the United Kingdom, 1933–34.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Grants amounted to one fourth of the local governments' combined rate and grant income before the war, and by 1929 they had grown to more than one third of this income (see Table 1). Such a sum of money is a powerful tool in the hands of central authorities, and Sidney Webb is probably right in crediting the grant-in-aid system with no inconsiderable share in the high standards of local government of which England is so justly proud.[5] Some fifty different items are listed in *Civil Estimates* for 1928-29 as grants in aid payable to local authorities in that year. These invaded practically every field of local activity and carried with them detailed controls. Eighty-eight per cent of the money distributed in this year was apportioned in proportion to approved local expenditures for specified purposes and was conditioned on the local authorities meeting certain national standards.

The needs of poor communities, as such, received little consideration under this system. Only the elementary education grant was distributed on the basis of a formula containing equalizing factors. This, fortunately, was the largest grant, but even this fixed a 50 per cent minimum and a 66⅔ per cent maximum within which the equalizing factors were permitted to operate. The percentage grants favored the wealthy districts, since these alone could obtain enough in local rates to take full advantage of the Government's offer. Yet Sidney Webb, writing as late as 1920, while recognizing the need of a certain amount of equalization, holds that the bulk of the grants should be variable percentage grants for specific services and maintains that grants for general local use "can form no part of scientific finance."[6] The 1929 Act, however, has abolished a substantial number of these percentage grants, replacing them with a fixed block grant for general use, and in the debate preceding the passage of the bill Neville Chamberlain condemned the percentage grant both on the ground that it aided the wealthy district more than the poor,[7] and on the

[5] Sidney Webb, *Grants in Aid*, 1920, p. 6.

[6] *Ibid.*, p. 98.

[7] "Local expenditure as the basis for determining what should be received from the State . . . is the very principle . . . which has brought about the necessitous areas. . . ." *Parliamentary Debates*, Fifth Series, vol. 223, p. 92.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ground that it caused needless and irritating interferences with local affairs on the part of central officials. The Conservative sponsors of the 1929 Act did not, however, have the courage of their convictions. As a matter of fact, less than one fifth of the old grants were discontinued, and the largest part of these were independent of local expenditures. More than nine tenths of the grants varying with local expenditure remained. Nevertheless the new grant was larger than any of these, amounting to about one third of all grant money distributed, and it broke very definitely with the established practice.

The depressed state of industry was the fundamental reason for the 1929 changes, and the Local Government Act was an essential feature of the Government's recovery program. Prolonged unemployment had greatly increased the expenditures of local authorities. The rates for poor relief tripled between 1919 and 1927, and increases were greatest in just those localities that were least able to pay. The absence of any important equalizing factor in the grant system was more than ever apparent. The reform was designed to aid industry in three ways: directly through derating and indirectly through reducing the cost of local government and through equalizing the burden. The cost of government was to be decreased through economies effected by the reorganization of local districts and the transfer of certain functions to larger units. Equalization was to be achieved partly through the larger unit of administration and partly through the formula for the distribution of grants.

Specifically, the 1929 Act provided for the complete exemption of agricultural land and buildings from local rates (§ 67), and for the valuation of real estate used for manufacturing and transportation purposes at 25 per cent of net annual rental value for rates (§ 68). Local authorities are reimbursed in full for the resulting losses, estimated on the basis of the 1928-29 rates, by new grants (§ 86).

The second feature of the 1929 Act which concerns local financial problems is the transfer of functions to larger areas. All functions of the poor law unions are transferred to the counties and county boroughs (§ 1), and the former unions are

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

abolished. In consequence the number of authorities administering poor relief has been reduced from 631 to 145, so that the average size of the new unit of administration is more than four times the size of the old. This alone has been a material factor in equalizing resources. Further, all highway functions of rural districts have been transferred to the counties (§ 30). Since the rural districts were some 640 in number and the counties 62, this means that the rural highway district is, on the average, ten times its former size. Important economies and equalization of resources should result. There has been, further, a partial transfer of highways from urban districts to counties, but the administration and support of residence streets and, in exceptional cases, through highways are left to urban authorities (§§ 31 and 32).

The third important feature of the 1929 Act from the point of view of local finances is the substitution of block grants for a large number of former grants. The amount of the new grants for England and Wales is £43,600,000, which comes to £5,000,000 more than the losses from grants and derating, as estimated on the basis of 1928-29. Ultimately this block grant is to be distributed entirely according to the formula discussed below, but to prevent injury from rapid change a sum equal to 75 per cent of the losses from rates and grants is distributed to the counties and county boroughs in proportion to losses until 1937 (§§ 88 and 134). This amount is then reduced by successive stages, disappearing entirely in 1947-48. The remaining sum is distributed in proportion to the weighted population formula (§ 88). If, however, the total received by any county or county borough under this distribution falls short of a sum equal to the losses from rates and grants in the standard year, plus one shilling per capita for the population of the standard year, the local district in question receives an additional exchequer grant to cover the deficit (§ 90). These grants are in addition to the sum of £43,600,000.

Turning to the relation of the county to its subdivisions, municipal boroughs and urban districts receive a fixed sum per capita, the amount being determined by dividing half the counties' share by the population of the counties. Rural dis-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

tricts receive one fifth as much per capita, the smaller amount being justified by the transfer of functions to the county. These capitation grants are temporarily increased for "losing" areas and decreased for "gaining" areas (§ 94). Further compensation is given to districts within the county for losses from special and parish rates (§ 92).

There remains to be considered the weighted population formula on which the total grant will ultimately be distributed if the new system should survive twenty years without amendment. Each county and county borough share of the residual grant at present, and of the total block grant finally, is determined by the proportion of the weighted population of that county or county borough to the total weighted population of England and Wales. The weighted population is determined by the proportion of children under five, rateable value per capita, proportion of unemployed, and the sparsity of population per mile of road. The number of children under five was chosen as a factor for weighting on the assumption that the proportion of children is high in the working population. It is, in other words, a measure of poverty. The rateable value per capita was selected as a measure of local taxpaying ability. The proportion of unemployed is a measure both of need and of inability to support local government. The loading for sparse population is primarily a measure of the highway burden. The specific base chosen in each case is such that the population of practically every county and county borough receives some weight for each factor excepting unemployment, and the majority have their population weighted for this, too. Certain modifications were made in this system for London. The actual proportion of the grant distributed on the basis of weighted population that is assigned to the different factors, with the existing distribution and composition of the population in England and Wales, is given in Table 2.

With regard to the future development of the system, the amount of each local unit's share in the block grant is fixed for a period of five years, except for the first two "fixed grant periods", which are three and four years respectively (§ 86).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

TABLE 2

RELATIVE WEIGHTS ASSIGNED TO FACTORS IN BLOCK GRANT FORMULA [a]

	First fixed grant period	Second fixed grant period
1. Actual population	39.0	37.0
2. Children under five	24.0	17.7
3. Low rateable value	15.0	13.8
4. Unemployment	8.3	19.8
5. Population sparsity	13.6	11.7
	100.0	100.0

[a] Computed from data in *Annual Report of the Ministry of Health, 1933–34*, p. 324.

The shorter period at first was partly to enable fairly quick adjustment, should experience prove this advisable, partly to make it possible to utilize the 1931 census returns at the earliest possible date. It was anticipated that a census would be taken in the future once in five years so that the revision would be based on accurate and recent data, but this plan has been dropped for the time being.[8] Local authorities are promised that exchequer grants will be increased with each new grant period if rates have increased, so that the proportion of grants to rates will be maintained at the level of the first year for the country as a whole (§ 86). Individual shares will be readjusted according to changes in the amount and composition of the population. That is, weighted population will be recalculated. The guarantees against losses to counties and county boroughs, however, continue.

In the six years since the Local Government Act of 1929 has been in operation no important changes have been made in its provisions, but several changes have taken place in the financial relations of central and local governments outside the scope of this Act. With increased obligations and shrinking income, the national government sought to cut expenditure through the National Economy Act of 1931, which authorized the revision of grants not included in the 1929 Act. In consequence of this, education grants were revised, and the guarantee of at least 50 per cent of approved expenditures was abolished. Not all

[8] No census has been taken in 1936.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the changes since 1929 have been at the expense of local governments. On the contrary, new housing subsidies were introduced in 1930 and 1931. Also, the national government has continued to extend transitional benefits for unemployed workers so that they have not fallen on local poor relief; and it agreed to take over the entire administration of able-bodied poor relief beginning March 1, 1935, levying on the counties and county boroughs to the extent of 60 per cent of their 1932-33 expenditures for this purpose. This last step was delayed, owing to difficulties in applying the means test, until October 1, 1935. Grants for employment schemes have continued and increased. In 1933 the Government attempted to transfer the responsibility for new housing from the local authorities to private enterprise by putting a stop to further commitments under the 1924 Act and offering instead to meet half the losses of local authorities, under the 1925 Act, on guarantees to private building associations. This left the local authorities without government assistance for new housing programs, except for slum clearance. The result was almost complete cessation of building by local authorities, except for replacement of houses condemned and torn down as slums. The 1935 Housing Act again offers an opportunity for local government building, with subsidies varying with the cost of the site on which houses are built. This new housing is limited to relief of overcrowding as defined in the Act, but it opens the way to a comprehensive new housing program.

It is too early to measure the full effect of the Local Government Act of 1929. Only in 1947, should the provisions of this Act continue, will the temporary guarantees against loss be withdrawn and the weighted population formula be in full force. Meanwhile, however, some of the effects are apparent, and some estimate of the financial position of local governments under the existing system can be made.

The derating provisions of the Act have been more frequently criticized than any other feature. Rates in a number of districts exceeded 20 shillings prior to 1929. This would mean, if the valuation were equal to actual rents, that the tenant paid more in local taxes than he paid in rent. In a few dis-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

TABLE 3

GRANTS TO LOCAL AUTHORITIES IN ENGLAND AND WALES, EFFECTIVE IN 1934–35

Service	Basis	Amount (in thousand pounds) [a]
	Approved local expenditure [b]	
1. Registration of electors	50%	365
2. Probation of offenders	50%	58
3. Police, general	50%	10,290
4. Maintenance of children for whom local authorities are responsible in reformatories and industrial schools	50%	233
5. Higher education	50%	7,906
6. Local museum purchases ...	50%	1
7. Housing, 1919 Act [c]	Difference between cost and product of a penny rate..	6,651
8. Housing, 1923 Act [c]	£4 per house; for slum clearance 50% of annual loan charges	2,475
9. Housing, 1924 Act [c].....	£7 10s. per house (£11 in agricultural districts)	4,239
10. Housing, 1926 and 1931 Acts [c]	50% of annual loan charges, discretionary for rural housing	22
11. Housing, 1930 Act	£2 5s. per person displaced in slum clearance	425
12. Housing, 1933 Act	50% of losses sustained by guarantees to private building associations	2
13. Training of midwives and health visitors	50%	27
14. Port sanitary authorities ...	100% for medical inspection of aliens; 50% for all other	45
15. Rural water supply	Discretionary	200
16. Juvenile unemployment centers	Usually 75%	350
17. Administration of choice of employment schemes	50%	94
18. Placing defective children in employment	50%	4

[a] As reported in *Civil Estimates.*

[b] All grants the amount of which can be increased on the initiative of local authorities through the expansion of local government activities have been included in this group. Not all these are percentage grants. The housing grants, e. g., are only in part percentage grants; and discretionary grants are not strictly percentage grants although these are often apportioned as definite percentages of expenditures, and definite percentages are often fixed in administrative regulations.

[c] No new costs may be incurred under this Act.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

TABLE 3—*Continued*

Service	Basis	Amount (in thousand pounds) [a]
	Approved local expenditure [b]	
19. Employment schemes	Per cent varies with nature of expenditure	4,200
20. Emergency arrangements for transitional payments	100%	730
21. County agricultural committees	100%	2
22. Agricultural education:		
a. Capital expenditure	75%	e
b. Annual expenditure	60%	200
23. Compensation for killing tubercular cattle	75%	56
24. Reimbursement for losses incurred by small holdings authorities	100%	850
25. Land drainage	Discretionary	68
26. Afforestation	Varies with nature of project	14
27. Highways	Class I 60%; Class II 50%	12,998
28. Development fund	Discretionary	490
29. Public utility development	Discretionary	950
	Equalizing	
30. Elementary education [d]	Formula taking into account expenditures, school children and rateable value	29,791
31. Compensation to counties for assumption of loans of poor law authorities	Difference between interest payable under specified conditions and yield of 9d. rate	6
32. General exchequer	Formula taking into account population, rateable values, children under five, unemployed, sparsity of population; and losses from derating and discontinued grants	45,430
	Fixed and other	
33. Berwick bridge	Fixed sum	e
34. Metropolitan police	Fixed sum	100
35. Intermediate education, Wales	Sum equal to yield of halfpenny rate	29
36. Manchester College of Technology	Fixed sum	14
37. London Fire Brigade	Fixed sum	10
38. Compensation for rates on government property	Sum equal to rates on exempt property	1,818

[d] This is in part a percentage grant, but the equalizing factor dominates since the withdrawal of the 50 per cent minimum.

[e] Less than £500.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

TABLE 3—*Concluded*

Service	Basis	Amount (in thousand pounds) [a]
Total approved expenditure		53,945
Total equalizing		75,227
Total fixed and other		1,971
Grand total		131,143
Per cent approved expenditure		41.1
Per cent equalizing		57.4
Per cent fixed and other		1.5
Grand total		100.0

tricts rates exceeded 30 shillings. Even allowing for undervaluation and, perhaps, some shifting to the landlord through lower rents, this would seem to be a heavy burden. The cause of complaint lay in the inequalities, however, rather than in the general level of the rates. But derating was not directed at inequalities in the rates, nor did it offer relief to the ordinary householder. Relief was granted to those engaged in specified industrial activities, all participating equally, regardless of burdens and ability to pay. What the Government actually chose to do was to subsidize farmers, mine owners, manufacturers and shippers at the expense of the users of gasoline.[9] In support of this derating it is frequently contended that industry should not bear burdens equal to those placed on residents, since local government services benefit residents rather than industrial concerns. Education, health, housing and public assistance costs are incurred for the welfare of human beings and not for business; and highway costs and police and fire protection, which may benefit business equally with private individuals, account for the smaller part of local government expenditures.

Disregarding for the moment the fact that rates are commonly justified on the theory of ability to pay rather than bene-

[9] A new tax on gasoline was levied to meet the additional cost to the national government.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

fit, it is not clear that industrial establishments are in no way responsible for local government costs for education, housing, health and poor relief. It is true that the immediate benefit accrues to the employees, not to the industrial establishment. But it is also true that these costs are heaviest in the industrial cities. In residential cities there is no occasion for subsidized houses; a large number of the children are educated in privately supported schools; free medical services are not widely used; and the relief burden is at a minimum. The eleven cities with the highest rates in 1929-30, the last year of the old system, are mostly manufacturing cities, including Sheffield, Stoke-on-Trent, Merthyr Tydfil and West Ham. The eleven cities with the lowest rates for the same year are residential cities, mainly seaside resorts, including Bournemouth, Blackpool, Brighton and Southend-on-Sea. Thus before industry was derated, the burden falling on the local ratepayers was greater in industrial than in residential cities. If the local rate burden was higher in industrial cities than elsewhere while industry was still bearing its proportionate share of that burden, it would seem that the ordinary ratepayer was subsidizing industry rather than industry subsidizing the ordinary ratepayer. Had the industries in question paid adequate wages, there would have been little need for subsidized houses, public baths, free medical service and public assistance. If benefit is to be the standard for local rates, valuations of industrial properties must be increased and not reduced. Nor can the complete derating of agricultural property be justified on this basis. It is surely not merely as residents that the farmers profit from local government services. Highways, at least, are essential to the farm. Yet farm property is contributing nothing at all.

The Conservative Government made no attempt, however, to justify derating on this ground. It was simply a recovery measure. If industry were unburdened to this extent, it would be encouraged to expand. Employment would increase, and with this would come the usual train of events leading to prosperity. Chamberlain, in his speech in the House of Commons when the bill was under discussion, protested that " critics overlook the fact that you cannot benefit industry without increas-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ing employment",[10] and in a book published by the Conservatives in defense of the bill one finds the statement that if all productive industries, efficient and inefficient, are aided equally, efficiency is encouraged, and benefits will "filter down from the producer."[11] It would seem that the Conservatives were not conversant with recent economic thinking. Are merchants to be regarded as unproductive? And will the benefits "filter down"? It should be noted, in fairness to the Conservatives, that in the case of the freight transport they did not trust to the filtering process, but provided that the derating should be accompanied by a corresponding decrease in freight rates. Sidney Webb pointed out that since rates are a fixed charge, a business running part time will hardly be influenced in making a new contract by the derating.[12] Rates are, of course, a consideration in building a new factory or in reopening one which has not been occupied recently, but the bulk of the derating undoubtedly went to the benefit of manufacturers in operation.

One cannot consider the possible effects of derating without making some allowance for the specific condition of manufacture in Great Britain today. The depression has been most serious in coal mining, shipbuilding, the iron and steel industries and the cotton textile industry. These depressed industries have been concentrated in a few areas, notably Durham, Cumberland and South Wales. With the financial system in force prior to the Local Government Act of 1929, the closing down of a colliery, shipbuilding yard or steel mill reduced local rateable values materially, since these are not rateable when not in use, and increased local government costs, because of the added relief problem. Thus larger sums had to be obtained from a smaller base, and the rate in the pound levied increased materially. This tended to drive out such surviving industries as could move and practically prohibited new industries from coming into the area. High rates in depressed areas have, consequently, aggravated an already bad situation.

[10] *Parliamentary Debates*, vol. 223, p. 86.

[11] D. W. Gunston and G. Peto (eds.), *Rating Relief*, 1929, p. 8.

[12] *Parliamentary Debates*, vol. 223, p. 447.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Some localities have been practically reduced to taxing the unemployed for their own relief, the residents being almost entirely former employees of idle industrial plants, while the non-resident property owners, with whatever taxpaying ability they may possess, have escaped entirely.

The marked movement of industry to the south of England in recent years has many causes, but the one most often mentioned is the high local rates, largely occasioned by the relief problem, in the industrial areas of the north.[13] In consequence of this the derating of factories can to some extent be justified as an aid to distressed areas. But while rates do not bulk as large in factory costs as before, the fact that prosperous areas have benefited along with depressed areas means that the differential advantage remains. Moreover, in so far as the apparent movement southward is in fact the development of one type of industry, which is more suitably located near large markets, and which never had a real foothold in the north, rates can, at best, be a minor factor in determining location.

The derating of prosperous industries aroused much criticism in the House of Commons and would seem a little difficult to justify, even as a recovery measure. The consensus of opinion is that it has not achieved its purpose. Recovery there is, in some degree, but there is no indication that derating has played any part in it. In the case of agriculture further subsidies may be needed, but it does not seem at all certain that the tenant farmers, constituting two thirds of the total, will not find their rents rising, in consequence. Moreover, the loss of approximately 12 per cent of the only local tax source seriously restricts the possibilities of governmental expansion on local initiative. Losses in some districts exceed 50 per cent. When distributions of grants in proportion to losses cease, it seems quite probable that some districts will have difficulty in supporting the functions left to their control. Only on the assump-

[13] See, e. g., *Cmd.* 4728, p. 83. It is, perhaps, not quite accurate to speak of industry as moving south. What has actually happened is that certain heavy industries, located mostly in the north, have declined, while the prosperous automobile and light industries, located in the Midlands and London area near the largest market, have grown.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

tion that the presence of manufacturing, mining, transport or agricultural property in a district contributes little or nothing to the costs of local government, will the ultimate adjustment prove reasonably equitable. Nevertheless it is extremely difficult to revoke such privileges, once given. The gradual change from the old system to the new gives opportunity for serious maladjustments to be corrected, but the correction will probably come from further grants from the national government. The local governments' tax base has been permanently impaired. The derating, which was the principal reason for the Local Government Act of 1929, would seem to be its least defensible achievement.

The economies effected by the revision of district boundaries and the transfer of highway and public assistance support to larger governmental units cannot be readily ascertained. The general trend of expenditures is meaningless in view of the fact that depression followed on the heels of local government reform and inevitably increased the relief burden. Highway expenditures were likewise influenced by depression, since they could to some extent be deferred as an economy measure or increased as a relief measure. Consequently the influence of the 1929 reform on expenditures for these specific functions, and on all expenditures, has been obscured by other and more potent factors. Expenditures falling on rates and grants increased about 4 per cent between 1928-29 and 1932-33. This small change is not surprising. With pressure for increased expenditure on one side and pressure for greater economy on the other, there is a tendency to maintain the status quo.

The revision of district boundaries and consolidation of districts, achieved thus far, are considerable. In so far as this contributes to the efficiency of local government it should reduce the cost. Of more importance, perhaps, from the financial point of view, is the equalization achieved by the wider area of support. There are numerous instances of comparatively wealthy residential areas being combined with poorer industrial areas. Such consolidations have not always had the approval of the wealthier districts concerned, but they have been accomplished none the less.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

In transferring poor relief to the county the local boards of guardians were quite generally retained as sub-committees of the county public assistance committee, and continued to carry out much the same duties as before. Thus a larger area for support has been achieved, except in the case of the county borough, combined with a decentralized administration. The apparent decrease in the total cost of public assistance is largely due to a changed classification, but expenditure per case handled has decreased for both indoor and outdoor relief, and it has been found possible to reduce materially the number of institutions maintained. The complete transfer of the relief of the able-bodied poor to the national government under the Public Assistance Act of 1934 is an important step toward the centralization of this function. This means that the largest part of outdoor relief has become a national function, and the counties are mainly concerned with the institutional relief. Unlike the 1929 changes, which increased the area of support and retained, for the most part, the decentralized administration, the 1934 Act goes farther in centralizing administration than support. Local advisory committees are retained, but the Unemployment Assistance Board has wide powers, and relief rates have been generally standardized. Yet 60 per cent of the sums paid by the counties for the relief of the able-bodied in the year 1932-33 is to be contributed by the counties toward the cost of the new system. This is for the time being a substantial further relief to county treasuries, but in view of the fact that 1932-33 was a year of extensive unemployment and high relief costs, it is conceivable that, with improved conditions, some counties may find their contributions exceeding costs. Recent increases in public assistance payments for political ends in cities which could not afford the additional burden, notably West Ham, are generally cited as the reason for the change. It is not yet certain that centralization of administration is going to be satisfactory, but in view of the necessity for central support and the consequent necessity for some substantial measure of central control, it is to be hoped that this experiment in thoroughgoing centralization of relief administration will be given every opportunity to demonstrate its possibilities

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

and shortcomings. If it should prove successful, it may be that the central government will assume full support also, leaving local resources for those functions for which local authorities still have a wide margin of freedom and responsibility.

The transfer of road administration to the counties met with considerable protest. Nevertheless, while many counties have delegated highway maintenance to the underlying districts, an increasing number are taking over all highway work directly, with apparent satisfaction to themselves and the underlying districts. Municipal boroughs have occasionally complained that they are now subject to the county rate for rural roads, whereas county boroughs, which would seem to have an equal obligation to contribute to surrounding rural roads, escape, since they are independent of the county. The converse of this is that the public assistance costs are usually higher in urban than in rural areas, and the municipal boroughs tend to profit from county support of this function, whereas county boroughs receive no contribution toward their public assistance costs. County borough rates are higher than those levied in municipal boroughs. Part of this may be accounted for by the additional amenities offered in the larger cities, but a substantial part of the difference is to be found in the public assistance rate itself. In other words, the wider area of charge under which the municipal borough is functioning provides a give and take which is, perhaps, not inequitable in the end.

Considering the gains from the substitution of a single block grant distributed according to an equalizing formula for a variety of grants, mostly for specific purposes and distributed in proportion to expenditures, the first problem concerns the relative merits of the new block grant and the discontinued grants. The abandonment of the fixed sums paid for the agricultural derating of 1896 and paid in lieu of the actual yield of certain revenue sources since 1908 needs no defense. They had been continued only because it was difficult to take away money to which the local units had become accustomed. The sums paid bore no relation to need, losses or local tax payments. The percentage grants, on the contrary, were fundamental to

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the old system. But they had their limitations, and reaction followed their extreme development in the pre-war and early post-war periods. In addition to benefiting wealthy districts most they required a degree of central control which was often annoying and even oppressive. Some of the abandoned grants were too small to justify the administrative labor involved. The discontinuance of these is a genuine gain. There would seem to have been no slackening in control of essentials, however, and consequently no appreciable increase in local independence. The percentage grants remaining are far more extensive than those abandoned, and the Minister of Health has the power to withhold any part of the block grants if he has evidence of inefficiency (§ 104).

The block grant has the advantage, from the local point of view, of giving local authorities more freedom in applying their resources to the services which seem to them most urgent. If their judgment is not always sound, at least they are in a better position to judge of the relative importance of these services to their community than any central authority. Further, it opens the way to equalization of resources, which the percentage grants cannot do. This is of increasing importance as governmental costs rise.

The particular formula selected for the distribution of the grant is designed to equalize. All four factors point to that end. Certainly no area in great need could fail to benefit from its provisions. None of the factors is an accurate measure of need, however, and there is no guarantee that combining them gives an accurate measure. Considering the individual factors, the most weight, 37 per cent, is given to the actual population. This is not difficult to justify. In the long run the cost of government is influenced more by the number of people governed than by any other single factor. This is so generally accepted that when comparisons in governmental costs are to be made, the data are regularly presented as per capita costs.

A per capita distribution of central government funds will always result in an appreciable amount of equalization as long as there are great variations in per capita wealth and income. Population has the additional advantage of being a simple

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

base to determine and a "fair" measure from the popular point of view. It is, of course, only a rough measure of need. It does not take poverty into account. Nor does it allow for the fact that a densely populated district normally has greater per capita costs than a sparsely populated area. A further shortcoming of population as a measure of need has become apparent with the recent shifts in population from northern England and South Wales to the south of England. A declining population brings with it no corresponding decline in governmental costs. Some savings there will be, of course, but schools half filled cost nearly as much to run as schools fully utilized. Debt service cannot be reduced at all. And the remaining population is apt to contain more than the usual proportion of aged and dependent in need of government aid. Consequently the depressed areas can ill afford to lose that portion of the government grants which is remorselessly cut off with each decline in population. Increased weighting for unemployment was insufficient to prevent Glamorgan and Monmouth from receiving less in the second grant period than in the first, although their financial condition was increasingly precarious, and county rates, which were already exorbitant, had to be increased.

The weighting for children under five determines the distribution of 17.7 per cent of the block grant. This factor in the formula has been criticized more than any other since, at best, it is an indirect measure of poverty, and young children do not increase governmental costs greatly. Figures show, however, that the poorest communities, measuring poverty by both rateable values per capita and percentage of unemployed, are regularly those with the highest proportion of young children, and while the number of children may be a less accurate measure than either unemployment or rateable values, it has the advantage of being more stable than unemployment and less subject to manipulation than rateable values. It is, of course, an empirical standard. There is no certainty that in other places and at other times it would measure poverty as satisfactorily as it does in England today. In fact there is already evidence that it is becoming a less satisfactory index

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of poverty in England and Wales than it was when the formula was devised. During the first grant period weighting for children under five increased the actual population by 62 per cent. In the second grant period, owing to the decline in the birth rate, it increased the actual population by only 48 per cent. This decreases the relative importance of children under five as a factor in weighting. Of more significance, however, is the fact that decline is greatest in the poorest regions. The weighting of the population of Surrey—the wealthiest county in England and Wales, barring London—for children under five was the same in the second grant period as in the first, whereas the counties of Durham, Glamorgan and Monmouth, those which have suffered most from unemployment, received much less weight for children under five in the second grant period than in the first. This decline would seem to be the direct result of prolonged unemployment. It is probably caused largely by the migration of the younger workers to areas where opportunities for employment are greater, leaving a larger proportion of older people in the remaining population. While the weighting for children under five is still materially greater for the poorer counties, and substantial equalization results from its use, it is apparent from the marked changes in the short space of four years that it is not as stable a measure of poverty as might be expected. It is conceivable that in time those areas where industry is expanding will receive more weight for this factor than the areas where industry is declining. Again, as in the case of population itself, the formula fails to measure the changing needs which come with rapid shifts in industry and population.

The weight allotted to low rateable values in the second grant period was 13.8 per cent, a little less than the weight in the first grant period. The use of rateable values in the formula repairs, in some measure, the damage done by derating. But inequalities in rateable value per capita are not, primarily, the result of derating. In the absence of derating there would still be a place for such an equalizing factor, probably as important a place as it has in the existing formula. It is, perhaps, the closest approximation that can be achieved to the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ability of local government to support itself, since rateable values are the base of the local authorities' only tax income. Rateable values are, of course, subject to manipulation, and in spite of marked improvement in valuations, following the Rating and Valuation Act of 1925, there are still serious inequalities. But the progress made in recent years suggests that inequalities will be reduced until they no longer form a deterrent to using this base as an important factor in grant distributions.

Unemployment is probably a better test of need for governmental expenditure on the one hand, and inability to meet governmental costs on the other, than any other single factor. Its value is impaired, however, for the purpose in hand by the fact that it fluctuates rapidly, and for a grant fixed five years in advance its use may well be questioned. A grant fixed in a period of depression might still be operating in a period of prosperity. And the industrial community with the greatest unemployment in the first period may be the most prosperous in the second. This would seem to be adequate reason for not giving too much weight to unemployment. In view of the further fact that the national government had already taken over the bulk of the direct costs of unemployment relief before the Local Government Act of 1929 and has since taken over a substantial part of the remaining cost of the support of able-bodied unemployed, the inclusion of the proportion of unemployed in the formula can be justified only as a measure of poverty and because certain sections of England are faced with such a long-protracted unemployment problem that it may be regarded almost as permanent. In the first fixed grant period unemployment had the least weight of any factor in the formula. In the second, however, it has outstripped all the other factors, excepting actual population, in importance. In Durham, Glamorgan and Monmouth this factor alone is responsible for more than one third of the grant distributed according to the formula. In so far as the unemployment in certain areas in England is long-continued this factor would seem to be essential to any equalizing grant. But the use of such a factor for a fixed grant for five years under other conditions, where

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the number of unemployed rises and falls rapidly, would be less suitable.

The final factor in the formula, weighting for population density per mile of highway, is to meet a specific need. There is also, perhaps, some thought of compensating rural areas more or less permanently for losses from the complete derating of agricultural land. This factor accounts for 12 per cent of the weighted population in the second grant period. For administrative counties, which alone profit from this factor, the weighting for sparse population amounts to 19 per cent in the second grant period. A few agricultural counties are receiving between 40 and 50 per cent of their share in the block grant as a consequence of the weighting for sparsity of population. Since per capita highway costs increase with sparse population this would seem to be an appropriate measure of needs.

Considering the formula as a whole, even its supporters stress the fact that it is empirical. No one suggests that it has any scientific value. The only claim made for it is that it "works". Being empirical, it is fully recognized that it may not continue to be equitable. It is anticipated that revision may come soon and frequently. Meanwhile there is very general satisfaction. It seems probable, however, that this satisfaction comes from the fact that every district was guaranteed against losses from the new system, at least at first, and that most of them made substantial gains, as much as from the equity of the distribution formula.

In contrast to the success of the distribution of the grant to the counties on the basis of the weighted population formula, the flat per capita grant to the subdivisions of the county would seem to be a provision of more doubtful value. The number of a community's inhabitants may bear a fairly close relation to the costs of local government, as long as local governments are not responsible for welfare burdens, but it bears little relation to local resources, particularly in view of the eccentricities of derating. The temporary guarantees against loss to some extent obscure the effects of this capitation grant, but it is clear from individual instances that it is erratic in its working. Only the temporary guarantee and the fact that

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

grants as a whole have been materially increased have prevented genuine hardship in some communities. Meanwhile some wealthy districts are being needlessly subsidized. The block grant distributions of the wealthy counties of Surrey and Middlesex are not sufficient to meet the 12 shilling per capita grant to the county subdivisions, and the national government has to supplement it accordingly. Where grants are used to direct local activities into desirable channels or are conditioned on maintaining specific standards for specific functions, there is no particular reason for distinguishing between rich and poor communities. But grants designed to reduce the burden of local taxes must conform to a different pattern. Why, after meeting nearly one third of their highway costs, more than one third of their education costs, half of their police costs, and most of their housing and public assistance costs, the central government should further distribute to the wealthy counties of Surrey and Middlesex 12 shillings per capita, for relief of ratepayers or expansion of government activities at the option of local authorities, is not clear. Any abstract right of these communities to their share in the national tax revenues would seem to be overbalanced by the loss of local responsibility.

The guarantees against loss may have been inevitable as political measures, but it would be hard to justify them on any other ground. And it is particularly difficult to understand why the county and county borough guarantees should be permanent while those for the subdivisions of the county are temporary. The county borough which suffers from derating will be compensated by the low rateable value factor in the distribution formula; and whether it suffers from derating or not, grants on the basis of the formula will vary with need. The municipal borough, on the contrary, has no such assurance that grants will vary with need. Some communities, poor to start with, have had rateable values cut in half by the derating. These may find their financial position more difficult than before the change, when direct compensation for losses ceases, in spite of certain mitigating factors.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

One final point remains to be considered in connection with the block grant, the fixed period for which it is given. The principal reason for not revising the grants annually is the difficulty of obtaining reliable data for the distribution formula. With the quinquennial census, accurate data for revision would be available once in five years. An additional advantage of the fixed grant period is the certainty of such a grant. Both the national and local governments know for some time in advance just what can be counted on. This raises the question as to whether the factors in the formula are themselves sufficiently stable that no injustice is apt to occur from using them for a five-year period. The ratio of each factor in the second grant period to the same factor in the first grant period was: population 101.5, children under five 79.3, low rateable value 98.5, unemployment 254.2, sparsity of population 93.7. In individual counties and county boroughs the variation was much more marked. It would appear that children under five and unemployment, at least, were highly unstable factors. Extending the age limit for the children would materially stabilize this factor. As it stands, none of those included in one grant period is included in the next. If the entire group under ten were included, for example, this factor would be far more stable, and there would seem to be no good reason why the larger group would not be as satisfactory a measure as the smaller one. The unemployment factor could be stabilized by the use of a moving average. Such procedure would, of course, be justified only on the assumption that unemployment leaves an aftermath of burdens which impairs the financial position of the local unit for some years after the actual unemployment has declined. If this is not the case, the question is not one of stabilizing the measure, but rather of readjusting the grant more frequently to changing conditions.

Local authorities, accustomed to fairly regular annual increases in grants, have been very much disturbed by a fixed grant. To maintain that the five-year period means stagnation,[14] is, however, an overstatement of the case. For the

[14] Greenwood in *Parliamentary Debates*, vol. 223, p. 116.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

first grant period local authorities received more in total grants than in the last year of the old system, and the amount of the grant is to be readjusted with each new grant period so that the ratio of grants to rates will be what it was in the first year of the new system. It is, of course, true that expansion during the grant period must come from rates (except for education, police, housing and highways—not unimportant exceptions); but if, in consequence, rates have increased ten per cent, say, during the five years in question, the amount of the block grant will be increased 10 per cent for the new period.

The first aim of the 1929 Act was relief to ratepayers, and the first test of its success lies with the reduction of rates. Rates decreased from £167,000,000 in 1928-29 to £145,400,000 in 1932-33. To this extent ratepayers have gained. But the gain goes to the owner of derated real estate rather than to the ordinary ratepayer. The rates falling on the property receiving no benefits from derating increased, although only by one half of one per cent, in these four years. The average rate in the pound has fallen from 13 shillings to 11 shillings as the result of increased valuations. To the extent that increased valuations represent increases in actual rental values the ordinary ratepayers' burden has decreased. To some extent, however, this increase is the result of improved valuation machinery and represents a closer approximation to actual rentals rather than an increase in the rentals themselves. All types of districts shared in these rate reductions, but the greatest gains have gone to rural areas.

The second aim of the 1929 reform was to equalize rates. The highest rates have been reduced. In 1927-28 there were 95 local authorities with rates in excess of 20 shillings. In 1932-33 there were only 18 such authorities. Three factors have been operating to reduce the number of these excessive rates. In the first place, valuations have been improved. In the second place, the total amount of the rates has been reduced. Finally, some equalization of burdens has been achieved through the wider area of charge for public assistance and rural highways, through changes in the education grant, and through the application of the block grant formula. With all

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

these factors influencing rates, the marked decrease in the number of authorities levying rates in excess of 20 shillings is not, alone, adequate proof of equalization. As a further test the standard deviations for rates in the different districts have been computed for 1928-29 and 1932-33. These are given in Table 4.

TABLE 4

VARIATION IN THE AMOUNT OF THE RATES IN THE POUND LEVIED IN DIFFERENT TYPES OF LOCAL UNITS, 1928-29 AND 1932-33 [a]

	Average (shillings)		Standard deviation	
	1928–29	1932–33	1928–29	1932–33
County boroughs	14.64	13.10	3.71	3.15
Municipal boroughs	14.17	11.77	2.75	2.34
Urban districts	14.22	11.88	3.65	2.90
Rural districts	11.72	9.27	2.71	2.27
All local governments	13.25	10.97	3.43	2.95

[a] Compiled from *Rates and Rateable Values, England and Wales*. Rates are the total levied in each district for all local governmental units.

It is apparent from these figures that some equalization has taken place, in the nominal rates at least, although the results would be disappointing to any believer in thoroughgoing equalization. The achievement in 1932-33 is no test, of course, of the final equalization achieved by the new system, since the larger part of the block grant is still being returned in proportion to losses.

On the whole, the equalizing measures in the 1929 reform have served their purpose well. No instance has been found where either the wider area of charge for highways and public assistance or the distribution on the basis of the formula has worked with gross unfairness.[15] A system which meets half of local government costs from central funds should encourage irresponsible local expenditures. Only in a handful of instances, however, is there any indication that this has occurred, and even in these cases the evidence is not conclusive. Even

[15] In addition to a statistical study of the finances of all counties and county boroughs and 120 municipal boroughs, urban districts and rural districts, the writer had the opportunity to visit and talk with the financial officials of some thirty local governments scattered throughout England and Wales.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

in well-to-do districts the increased grant money has been used, to a surprising extent, for the relief of ratepayers. Poor districts have invariably profited by the system and profited more than their wealthier neighbors. The formula attempts to measure both need and ability, and on the whole it has been successful. There are still many poor areas whose needs are not adequately met by the grants, but no simple fiscal measure could hope to deal with the extremes of wealth and poverty to be found in England today. Nothing short of revision of the entire industrial structure can cope with this situation.

If further equalization is desirable, it can be achieved without increasing the total of the national government's contributions. The education grant might readily be used for greater equalization by increasing both the number of shillings per child and the amount of the penny rate deducted. The block grant, too, could be adjusted to reduce the emphasis placed on actual population and to increase the emphasis on various factors in the weighting. The weighting might even be extended to the redistribution among the subdivisions of the county, as is now done for the Metropolitan Boroughs of London.

Inequalities in resources among the different local units are very great, however, and the districts with the highest rates are now receiving, in many instances, more than half their tax income in grants. It is apparent that if the high rate districts were to receive enough aid from the national government to bring local rates down to the average, the national government would be contributing two thirds, three fourths and even nine tenths of local income in a substantial number of cases. This is not compatible with local initiative. The control cannot safely be turned over to the junior partner.

The national government has been able to carry its grant system to the point that it has only because of thoroughgoing central supervision and control of local authorities. But the danger is not merely that of irresponsibility. There are considerable areas in England and Wales that are no longer self-supporting. The fact that local rates are excessive, even after the national government has contributed three fourths of local

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

government costs, is evidence of this. This is not a temporary depression phenomenon. Adequate equalizing grants in such communities result in maintaining the status quo, with no permanent benefit to the community in question and a serious drain on national resources. The English government is endeavoring to solve the problem of depressed areas through migration and other industrial adjustments. This is not essentially a fiscal problem. It is important, however, that such adjustments should not be retarded through overgenerous equalization of resources.

It is apparent that each form of grant brings with it limitations. The percentage grant is most successful when inequalities of wealth are least. It encourages high standards of local government, but it requires a degree of supervision which endangers local self-government, and it benefits wealthy districts more than poor. Much of the credit for the high standards of local government in England is due to the percentage grant, and it is easy to understand the reluctance with which it is being abandoned. It may be a luxury, however, which England can no longer afford. The equalizing grant does not require such rigid control as the percentage grant, and it benefits the poor districts more than the rich; but our measures of need and ability are far from accurate, and in so far as such grants do, in fact, equalize, they tend to perpetuate sub-marginal communities to the detriment of the entire country.

Both forms of grant have their place, but it seems doubtful whether such gaps between local revenues and local expenditures as have been experienced in England in recent years could, or should, be met entirely through grants in aid in any form. The alternative is to transfer the administration and support of certain functions to a larger governmental unit. England has widened the area of charge for highways and public assistance by making them county responsibilities; and it has transferred the administration of relief for the able-bodied from the county to the central government. Thus the national government has reduced again the ever-narrowing sphere of local self-government.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The national government in England spends directly more than two thirds (67.6 per cent in 1931-32) of national and local tax income; and national taxes contribute more than four fifths (83.2 per cent in 1931-32) of national and local tax yields. Grants in aid amount to nearly half (46.4 per cent in 1931-32) of the tax revenues spent by local authorities. Few countries have gone as far as this in centralizing taxes. Four fifths of the counties are receiving more from grants than from rates. The proportion of county and municipal boroughs obtaining more than half their income from grants is much smaller, but the proportion of urban districts and rural districts obtaining more than half their income from grants is much larger. Under these conditions there is little to choose, from the point of view of local independence, between the extension of grants and the transfer of more local functions to national administration. Grants which meet more than half the costs are not compatible with local independence.

If any important degree of local self-government is to be retained in England, it will have to come through other measures than increased grants. New local tax sources are difficult to find, but perhaps not impossible. Local governments in other countries have more than a single tax source at their disposal. Another solution which offers itself is to let the degree of local self-government be determined in part by local resources. It is not necessary that all local governments should have the same powers and duties. Under the present system schools and police are sometimes administered by the county and sometimes by the municipal borough. Where it is not desirable for other reasons to centralize the administration of a function, there would seem to be no reason for the national government to take it over merely because a few local authorities are unable to meet the costs. Most local governments in England and Wales are capable of meeting the larger part of their costs, and with the present degree of central support and equalization of burdens only an occasional area is in need of further aid. These must receive special treatment. In some cases the redistricting now proposed as a solution will

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

doubtless meet the need. But where redistricting fails, the transfer of more, and perhaps all, local functions to national administration may be required. Centralization is being forced, however, by many social and economic factors; and while the measures suggested above might prove useful in transition they can hardly be expected to stop the inevitable trend.

MABEL NEWCOMER

VASSAR COLLEGE

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

BETTER GOVERNMENT PERSONNEL

America's Next Frontier

THE Commission of Inquiry on Public Service Personnel was appointed at the close of 1933 by the Social Science Research Council. Inspired by Louis Brownlow, Charles Merriam and Guy Moffet and assisted by a number of expert contributors, with Professor Luther Gulick acting as their director of research and secretary, the Commission has inquired into and reported on the problem of personnel in the administrative, executive and technical services of national, state and local government. The result is a series of volumes[1] which offer both to governmental authorities and to students all that is required by way of expert advice for the creation of an efficient, zealous and honest civil service. It is impossible within the scope of this review to do more than to characterize generally each of these volumes, and then to contribute a series of comments on the principal subjects with which they deal. The second part of this undertaking will be my main task.

Logically, the *Minutes of Evidence,* a volume of 700 pages, comes first. This comprises the evidence taken by the Commission in many cities and the answers to its questions given by personnel officers,

[1] *Better Government Personnel: The Report of the Commission.* x, 182 pp. $2.00.

Minutes of Evidence. xiii, 721 pp. $6.00.

A Bibliography of Civil Service and Personnel Administration, by Sarah Greer (Monograph 1). x, 143 pp. $2.00.

Civil Service Abroad: Great Britain, Canada, France, Germany (Monographs 2 to 5 in one volume), by Leonard D. White, Charles H. Bland, Walter R. Sharp, Fritz Morstein Marx. x, 275 pp. $3.00.

Training Public Employees in Great Britain, by Harvey Walker (Monograph 6). xi, 213 pp. $2.50.

Problems of the American Public Service (Monographs 7 to 11 in one volume), by Carl Joachim Friedrich, William C. Beyer, Sterling D. Spero, John F. Miller, George A. Graham. xi, 433 pp. $4.00.

Government by Merit: An Analysis of the Problem of Government Personnel, by Lucius Wilmerding, Jr. (Monograph 12). vii, 294 pp. $3.00.

These volumes issued by the Commission of Inquiry on Public Service Personnel were published by Whittlesey House, McGraw-Hill Book Company, Inc., New York and London, 1935.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

efficiency-rating experts, members of civil service commissions, professors, financial officers, directors of education, representatives of reform groups and, not least, Herbert Clarke Hoover, former President of the United States. The testimony is unequal in quality. On the whole, the best evidence is given by those who have been especially engaged in personnel management. Some of the witnesses were hardly worth questioning, if we may judge by the text of the evidence published; and there seems to have been not quite enough drive and system to probe to the core of the problems. Though much has been done, more was possible. Two things stand out with very great clarity in this mine of information. One is the inefficiency of efficiency-rating systems; and the second is the failure of civil service commissions, owing to their corruption by the politicians, and, what is a function of the same thing, the insufficient funds allotted to them for their work. Then, running through all the pages and the minds of nearly all the witnesses, is the belief that it is possible to provide in the laws and the regulations, arrangements which will be "objective" in their result, that is to say, which will secure for civil services immunity from the arbitrary and uncontrolled instincts and appetites of men in governing positions. It is this part of the evidence which is more than a little frightening to an Englishman, for it is part of a phenomenon that will be discussed at some length later on in this paper, the belief that it is possible to find that perfectibility in the law which is not discoverable in men and to shelve responsibility rather than to impose it on men, even if painfully, through some mechanical device. It is this belief which has, in part, given rise to efficiency ratings, at least in the mechanistic and excessive analytical detail which has caused them to break down by their own dead weight. "Put not your faith in princes" was the old maxim of government. The new one should be, "Put not your faith in technique alone."

The whole inquiry is summed up in the *Report* of the Commission, a little volume entitled *Better Government Personnel*. This is a summary of recommendations, a discussion of the background and major problems of a career service, and an analysis of the numbers and branches of the public service. It is, in general, so excellent, that it seems uncharitable to say that it might have been written more incisively and less discursively with advantage. Monographs 2 to 5 consist of studies by Leonard D. White on "The British Civil Service", Charles H. Bland on "Public Personnel Administration in Canada", Walter R. Sharp on "Public Personnel Management in

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

France", and Fritz Morstein Marx on "Civil Service in Germany". These are, indeed, admirable short studies of their subjects, the better because each of them consists of less than 100 pages, and all the essentials are brought within this short compass. Monograph 6, by Harvey Walker, called *Training Public Employees in Great Britain,* deserves very high tribute. It has come as a revelation to many Englishmen, who complacently believed that in their own country things were so well that there was no room for improvement.

Problems of the American Public Service contains studies on "Responsible Government Services under the American Constitution" by Carl Joachim Friedrich, on the "Municipal Service in the United States" by William C. Beyer, on "Employer and Employee in the Public Service" by Sterling D. Spero, on "Veteran Preference in the Public Service" by John F. Miller, and on "Personnel Practices in Business and Government Organizations" by George A. Graham. Professor Friedrich's contribution is very stimulating, but one feels that many of the generalizations cannot be supported by either historical evidence or the facts of the contemporary world. Mr. Beyer's essay is very intelligent and informative. Mr. Spero's study gives us, in its short compass, all the important data in fact, opinion and law relating to the position of civil servants in the employer-employee relationship with the public. A special word of praise is due to Mr. Miller's lucid and comprehensive account of that terrible plague, veteran preference. Finally, Mr. Graham's essay, to which we give more attention later, laboriously and successfully attempts (but it is a Pyrrhic victory) to show the similarity of personnel practices in business and government.

The last part of the material is a little treatise called *Government by Merit* by Lucius Wilmerding, who acted as assistant to the director of research in the Commission of Inquiry. Apart from the amiable idiosyncrasy of quotations from the ancients, this author has gone about his work in a thoroughly efficient manner. He has taken each of the great problems in the establishment of a civil service and applied to it a sound, robust, intelligent, analytical mind, weighing the value of the various solutions so far offered by theory and practice, and he comes down nearly always on the right side. It is a really capable and thoughtful piece of work. But too English!

Great gratitude and praise are due to Sarah Greer for her workmanlike, comprehensive and highly intelligent *Bibliography,* which forms Monograph 1.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

I now turn to a consideration of certain salient features of the public service. In the course of the following comments I shall refer to the volumes already mentioned and, in order to save time, cite the various Monographs by the name of the author only.

The Importance of the Public Service

The importance of the problem of the public service arises primarily from the numbers of people now engaged in it and the total amount of government revenue they administer. If we could assume that the happiness of mankind bears a direct relationship to the amount of material welfare at their disposal and remember that the amount of revenue administered by the government is a part of that material welfare, then the three million permanent full-time government employees are providing something like 25% (the ratio of government revenue to national income) of the happiness of the people of America. But the importance of the civil service is not merely quantitative. Wilmerding (pp. 4 and 5) says "the real importance of the civil service, however, is not quantitative but qualitative, and is to be sought in the function it fulfils." But all that this means to him is this: "it is through the civil service that the hopes and aspirations of the people are finally realized." This is true, but it is a flat platitude. The important thing about the civil service, and none of these volumes emphasizes this enough, is not merely that it performs public functions, but that among those public functions are powers of regulation and control, the social effect of which is far greater than the small numbers indicate. Many thousands of civil servants are engaged in menial tasks of simple messenger or manipulative character, and their importance to the public is as manifest as it is small, but the importance of those in the administrative, the executive and the inspectorial ranks is pervasive, and their influence extends through society, like the ripples on a lake, originating in the impact on the water of an insignificant pebble. This aspect should have been emphasized, because, in fact, it makes the bare statistical description of the place of the civil service in the modern state a serious underestimate.

Ideals and Civilization

The perception of the growth of this great force has made its improvement America's next frontier, and the question is whether Americans want the technical improvements discussed so fully in these volumes. Have they the will to march in the direction indi-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

cated? The evidence is abundant of apprehension that the present spirit of American civilization is inimical to the establishment and continuous maintenance of a government career service, and, in the realization of this, American students have wondered what it is in the English that enabled them eighty years ago to institute great and enduring reforms. The *Report* says:

> The spoils system, the use of the public payroll for charity, undiscriminating criticism of public employees, and the failure to adjust our ideas, our governmental institutions, and our public personnel policies to the social and economic changes since the Civil War, are primarily responsible for this condition (p. 3).

These are the proximate causes of the parlous condition of the American public service today, but only the proximate causes. Indeed, they are symptoms rather than causes. The disease is more deeply seated. It is a grave question, indeed, whether the American environment is in general favorable to a public service like that in the best Continental countries. I do not doubt that it is possible by a superhuman effort on the part of a few devoted reformers to establish such a service; the obstinate difficulty is whether the spiritual conditions exist in which it can continue to flourish. My anxiety on this score is deepened when I read in the *Report* that "it is apparent that the weakest link in American democracy, the point at which we fall most conspicuously behind the other self-governing peoples, is in the appointive services where the great bulk of the work of modern government is carried on" (p. 16). The perspective is awry. True it is that here is a weak link in American democracy; it may be the weakest link. Yet the point at which American democracy falls conspicuously behind that of the other self-governing peoples is about as great in its political and educational arrangements, so that if all the excellent technical advice for the establishment of the appointive services were implemented, they would be in daily jeopardy from the political side. Hence we are thrown back on the representative institutions of democracy, and from those again we are forced to retreat to the general spiritual conditions of American life.

In Professor White's study there is some attempt, avowedly not a full attempt, to discover why reform of the British civil service took shape between 1855 and 1870. He observes that "there was little economic pressure for reform" and that there was "no public demand for retrenchment and reorganization." These observations are valid only if the terms are construed in their narrowest and most super-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ficial meaning. There *was* economic pressure, because England was not a rich country compared with the exacting and passionate demands of social reformers. There *was* economic pressure, because only a few years earlier poor rate expenditure had been heavy enough to frighten and stimulate the middle and upper classes into reforming its administration and taking the first path-breaking step in English administrative invention of the nineteenth century. There *was* economic pressure, because the statesmen of this generation, who had to raise and to pay the taxes, were largely those (like Peel, Graham and Coutts, the banker) who had made or inherited fortunes from manufactures and commerce under the severe competition of the early nineteenth century. These and the groups from which they issued looked upon public expenditure as something which should be measured, against the means available, in detail and with severity, such as was customary in their counting-houses and factories. To miss this is to miss one of the most vital factors in the evolution of the public service in Great Britain and to ignore an element in the American situation which may for many years to come stultify similar reforms in the American environment. A public service comes into existence when there is the need to be economical. American experience between 1931 and 1936 demonstrates this, if demonstration is necessary. The American spiritual climate is prodigal and American material resources vast beyond the dreams of avarice. No one will make a public service unless it is necessary; and so far it has proved to be not necessary *to that degree* which it was in England in the middle of the nineteenth century.

And what, basically, is the reason for a civil service, a career service? It is inherent in certain deficiencies in elective representatives, on the one hand, and in certain positive qualities possessed by permanent professional government officials. The deficiencies are: lack of preparation, skill and purpose, and irregularity and intermittency of concern. The qualities we therefore need are: specific techniques, permanence (to give continuity of duty and long-run policy), and personal and political impartiality.

One other thing ought to be emphasized. The reorganization of the civil service in England, coming when it did, was not an isolated reform. It was only one of a number of reforms, just as far-reaching, which preceded it. I leave out of account that reform which has so much struck the imagination of American students, viz., the reform of the civil administration of India, and direct attention rather to the establishment of factory inspection by the government, the establish-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ment of an education office and grants and inspectors, the establishment of the metropolitan police force in 1829, of the municipal police forces in 1835, and of the county police forces in 1856, the establishment of the poor law commissioners, local boards of health, and other reforms of local government, partly depending upon grants in aid. All the principles which were invoked by the government and parliament to secure these reforms applied perfectly to the reforms of the central offices themselves. You could not plan for and demand efficiency at the extremities without invigorating the muscles of the heart itself!

Nor was this all. There was a quality of mind in England's new middle class rulers which necessarily sought in "open competition" the test of the right to public office. I have always been struck by a passage in an address by Gladstone on April 23, 1862, to the Association of Lancashire and Cheshire Mechanics Institute. (These institutes were themselves a symptom of the new faith in the efficacy of government and the creed of progress.) With the recent civil service reforms in mind, he talked generally of the question of competitive examination and among other things said:

> I have said to you, my friends, that the extended use of the instrument of examinations is eminently characteristic of the age in which we live. I would almost venture to say that, amid all the material and all the social changes by which the period has been distinguished, there have been few that are greater or more peculiar than this. . . . These examinations are in a great number of instances competitive; that is, they offer to the candidates one or more specific prizes, the possession of which by particular competitors involves the exclusion of others. This form of examination has great advantages. It raises to a maximum that stimulus which acts insensibly but powerfully upon the minds of students, as it were, from behind; and becomes an auxiliary force augmenting their energies, and helping them, almost without their knowledge, to surmount their difficulties.

Another point referred to by White leads to a useful train of thought. He observes that it was possible to go from patronage to merit in Great Britain because at that time Great Britain had no strongly organized political party, with local branches scattered over the country and maintained in order and discipline by the distribution of public jobs. He rightly points out that the number of persons affected by the change to "merit" was exceedingly small, as was also the number of persons who had to be convinced that the change was desirable, and concludes, quite rightly, that the agreement of

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the leaders of the two great parties was sufficient. Now, the truth behind these facts is very material to the American situation. The leaders were able to have their way because even then British political parties were highly centralized. Why? Since the parties had been operating for many decades, though in a form extremely inchoate as compared with that of our own time, the spirit of localism had been cast out, and the position of the leaders was paramount. There were already discipline and subordination in the parties, and the parties had already taken on the spirit and form of communities. This was the product of a continuous and stable political life and the smallness of the area to be governed.

The second thing is that England is a unitary state and without either separation of powers or constitutional limitations. This favored concentration of leadership, whereas the American system was designed to pulverize leadership, and does it only too effectively. All the petty political bosses scattered over the wide American continent want their share of power and spoils, and there is no way as yet in the constitutional system itself of excluding them, unless a sufficient number of men and women of integrity and high public spirit are willing to sacrifice their own comforts and enter political life and drive out the boss. This again, as I foreshadowed earlier, leads to issues which seem to be far remote from the American civil service but are part and parcel of the problem.

The truth is that, compared with America, England and Continental countries are "settled" countries. Quite apart from the political constitution, each individual (or at any rate, a sufficient number of individuals to matter) feels that he has a defined situation in society, that there are points beyond which he cannot or does not want to rise and points beyond which he will not fall. Though there is still much cut-throat rivalry and widespread exploitation, I doubt whether it is on quite the same scale as in the United States. On this side of the Atlantic there is a more poised and modest view of individual assertiveness, which leaves the way open, and actually makes a place, for state administration. This is slightly due to aristocratic tradition and the deference it has produced but much more to the many centuries in which a national consciousness has been deposited. Our people have become governable because they have learned to govern and curb those of their ambitions which would result in the break-up of the settled ways. And though our aristocracy were too often parasites, the best of them left a memory of genuine and honest public service because they were not, like the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

bosses and like so many of the American presidents, men of straw, who came from nowhere into public office and went from public office into nowhere. America will one day arrive at the kind of patriotism which Edmund Burke so well expressed, the duty to hand down to the next generation the entailed inheritance *improved*—but it has not arrived there yet. I have often thought that if we could combine American administrative technique in theory with English governability in practice, we should have the finest society on earth.

Preparation of the Public

Arising out of the realization that for a good public service public prestige is necessary, several of the Monographs discuss the problem of stimulating public interest and the problem of giving titles to distinguished public servants. Wilmerding says, for example:

> Honor is of two kinds: that which attends the office itself, and that which is given to the incumbent of an office. In England, France, and Germany, for example, it is considered an honor simply to serve the state, and this honor is distinct from such marks of recognition as may be bestowed upon outstanding public servants. . . .
>
> In the United States the prestige of public office is at a low ebb. Civil servants, instead of being regarded with honor, are often considered tax eaters, drones, grafters, and bureaucrats (p. 219).

This is a noteworthy observation. It is important to emphasize not only that there is something absolute, as it were, in the prestige of public employment, but that prestige is a *relative* term. That is to say, the attraction of the public service is something which has to be measured in comparison with the attraction of other vocations which may enjoy great public prestige. For example, a big business in America may be, and too often is, corrupt as no government service has ever been. Yet it is highly attractive, and it has very great public prestige because, if there is nothing else to be made out of it, there are at least large salaries for those who get to the top, and it is to the salary that the prestige is attached. Thus we come back to the state of mind as being the prime condition of a good public service. "All revolutions begin in the mind." If American economic demands become as modest as the English and the Continental, if American people ever become content to give up the freedom to fly as high as the sky, if they can get there, and come to prefer the life of the Continental *rentier,* then we may expect to see a flourishing public service. We saw something of this spirit in America in the autumn of 1932 and spring of 1933, when Americans began to find great attraction in "social security" and planning. Conversely, it

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

may be that for various reasons there will come to be attached to business in England a patriotic appeal—like that which used to be lent to it by the advocacy of the Prince of Wales on his world tours, and then many of the people who would otherwise have gone into the public service will be lost to it.

Americans are proposing that titles of distinction should be given to civil servants in America, as in England and on the Continent. I cannot agree with Wilmerding when he says, "There can be no doubt that one of the greatest incentives offered by the British civil service is the knowledge that conspicuous service will be rewarded with knighthood" (p. 223). It is true that this is some incentive to the individual, but the chief incentive lies in the fact that the service is regarded by the public and the rulers of England as one which is doing work so important that it deserves to be thus recognized. The individual then feels not merely that he himself is being rewarded, but that he belongs to a company of people who have been marked out for meritorious public service, and obtains and deserves the approbation of his colleagues. But what a background there is to all this! What a history and what a sense of present significance in these grades and hierarchies in our society! Having regard to "veteran preference" in the American service, to the extent to which jobs have been corrupted for political purposes, and to the recent history of the veterans' bonus, I tremble to think what would happen in the United States if marks of recognition were granted to civil servants of outstanding ability. Would it be possible to avoid the debauchery that would seem likely to follow the institution of an order of civil merit? It is a difficult problem for America to solve.

The foregoing considerations must lead to the conclusion that the problem of better government personnel is not merely a problem in political mechanics, not merely a question of an organized and harnessed technique; we are concerned with a limb of society whose place and purpose and functioning are dependent on the whole organism, the blood-stream and composition of the body politic. It may have all the qualities of the arm of the champion javelin thrower, but if the trunk is deficient, it will wither.

Youth and the Public Service

In Mr. Beyer's contribution, and throughout the pages of the *Minutes of Evidence,* particularly in relation to the various civil service commissions and the operation of the merit system in the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

states and cities, we see that the mechanism has been defeated for lack of an effective social conscience. Hence the *Report* justly stresses the importance of the public's part in the foundations of a career service. It says:

> There must be public acceptance, acknowledgment, and general understanding of these career services, and an appreciation on the part of professional and scientific groups, and of the learned societies and the press, of the distinctions between the services and of the nature of the contributions of each to the total work of government (p. 27).

That is why the commissioners were wise to bring before them the various leaders of reform groups, and especially to coöperate with the leagues of women voters. It is not enough, however, to teach the public what is involved in the quotation from the *Report*. It is much more important, because more fundamental, that, while doing this, a genuine and permanent attempt shall be made to influence the minds of the coming generation. Civil servants are not made by the few years spent at school or university. They are a product of the total impact of society upon them, and the roots of the good civil servant are in his family life and go back to childhood. I thought that Wilmerding would give this the importance it deserves, for on page 70 he begins a recondite exploration into the "several stages which may be distinguished in their evolution", "their" referring to "men of character and competence". He arrives at the conclusion that the first stage ends in birth, and the second is that of formal general education between the ages of six and twenty-four. But he has little to say about these stages, except, quite rightly, to express his contempt for the miserable empiricism of some schools and colleges with their hundreds of *ad hoc* courses. While I was in Chicago as Visiting Professor, in 1935, I was continually asked how America could breed a race of civil servants like the British. Chief among the ingredients must be far more attention to the mentality and behavior of American youth than is given today. Whether in real life, or portrayed at the cinema, the kind of youngster who is favorite in America is aggressive, wise-cracking, pampered, insolent and unruly. His parents and their friends think it immense fun if they can say of a child that he is "tough". But if children are brought up to and through high-school age with "toughness" as the ideal, they may make very good aggressive business executives and salesmen, but they cannot make good citizens or civil servants. If we compare recent descriptions of English and American life in novels

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

and autobiographies, we can better appreciate the point that I am laboring. Let readers compare the sense of quietness and modest social behavior and ideals ascribed to the English by Negley Farson (a much over-rated author) in *The Way of the Trangressor* and by Thomas Wolfe in *Of Time and the River* with some of the passages in Louis Adamic's *Grandsons*. It is true that Adamic is dealing with a criminal racketeer, and that he has not yet been able to find adjustment to the country of his adoption, yet when all allowances are made, we are compelled to believe that over too many of the fields of American life, occasionally even the academic, the spirit of the racketeer reigns. Therefore the problem of the American pioneers of a beneficial civil service is not one of intellectual persuasion alone. It is a problem of a social mission, concerned with changing the balance of our resistance to those comparative temptations, private wealth and the public good.

Having regard to what is only too well known about the rapacious nature of American politicians and a substantial proportion of the people, it is no surprise to read in Miller's essay how the public service has been ruined. It is tragic that, in order to mark the gratitude of the American people to those who volunteered or were drafted into the army and navy, it was necessary not only to provide them with a generous bonus but also to damage and corrupt the public service.

The Responsibility of the Public Service

The problem of responsibility, a subject of fundamental importance, is discussed by Friedrich. He begins with the definition in the Oxford English Dictionary: "a responsible person is one who is answerable for his acts to some other person or body, who has to give an account of his doings and therefore must be able to conduct himself rationally" (p. 30). This definition seems to me to be as unambiguous as it is correct. Responsibility necessarily requires the existence of a relationship of obedience on the part of the person acting to an external controlling authority. It is in this externality of reference that the essential nature of responsibility consists, and it is obvious what significance this has for the public service in a democratic state. To whom should government services be rendered responsible? Friedrich, in his anxiety to prove that "the possibilities or alternatives are considerably greater than is frequently assumed" in the discussion of this question, seems to me to introduce more unwholesome complications than are necessary. He points out quite

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

rightly that in other times there was "a type of responsibility in matters of government which we may call religious", typified in the fear of excommunication by the church. Then he slips away from such truly "objective" and practical responsibility to the *feeling* of responsibility, that is to say the self-imposed obligation which came about by the obedience of governors to the general ethics and mysticism of the particular church which was dominant in their locality. When he says that "When Frederick the Great pronounced his celebrated dictum, 'I am the first servant of my state,' he was idealizing the reality of a moral or religious responsibility which lacked the effective sanction of an ecclesiastical ban" (p. 31), it is very difficult to ascribe meaning to the words "idealize", "reality", "moral", "religious" and "responsibility". Such must be the comment, too, when he observes, with reference to Burke's famous speech to the electors of Bristol, that Burke "idealized the reality of a political responsibility." In both these cases there is, or we may presume that there was, a sense of duty, of self-discovered and self-imposed obligation, but we have no right whatever to use the term "responsibility". What a surrender this would be to the Mussolinis and Hitlers! For this abuse of the term "responsibility" is the very marrow of their systems. Friedrich then proceeds to this truly startling statement: "Nor has the political responsibility based upon the election of legislatures and chief executives succeeded in permeating a highly technical, differentiated governmental service any more than the religious responsibility of well-intentioned kings" (p. 31). If Professor Friedrich imagines that this is true of England, he is wrong. If he imagines it is true of France, he is wrong. And if he is basing his generalization upon the experience he knows best, namely German experience, then he is confusing elections with responsible government and erroneously making "representation" equivalent to "responsibility". And can he argue that his observation is true of the United States? Hardly, because the constitutional relationship between the legislature and the executive in the United States is not properly designed to secure political responsibility.

Friedrich makes a great deal of the value of the responsibility of the civil servant to the law courts. This is just and important. But is it possible to say, without an abuse of terms, that judicial decisions are relatively *responsible* because judges have "to account for their action in terms of a somewhat rationalized and previously established set of rules"? "Any deviation from these rules on the part of a judge will be subjected to extensive scrutiny by his colleagues and

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

what is known as the 'legal profession'" (p. 36). It is true that judges take account of the opinion of their colleagues and the legal profession, that they are alternately impelled and restrained and sometimes converted by such opinion. But can this be called "responsibility"? Are the judges really answerable in the sense of the definition chosen by Professor Friedrich himself? It is manifestly and even deliberately arranged that judges shall *not* be affected by discipline, rewards or dismissal in the exercise of their functions. I do not see how it is possible to apply the term "responsibility" except where there is lodged in the hands of the governed the power, if not to dismiss, then, at least effectively to damage, in default of amendment. Nor is the attempt to call a responsibility of this kind "functional" and "objective", in contrast with "'general' and 'subjective' types, such as religious, moral, or political responsibility" (p. 37), well founded. I should have said that only political responsibility is "objective"; and I should certainly put the responsibility of judges and administrative officials applying scientific standards into the category of "subjective". Political responsibility alone is "objective", because it is to a body external to the one who is responsible, its standards may be stated with finality and exactitude, and its rewards and punishments made peremptory. In all other cases, the responsibility, or rather its character and extent, is determinable by the functionary, whether he be judge or administrator. It is most important clearly to distinguish a "sense of duty" or "a sense of responsibility" from the fact of responsibility, that is, effective answerability. I am anxious to emphasize once again that the notion of *subjective* responsibility (in my definition of it), whether as intellectual integrity or general loyalty to the spirit and purpose of one's function, is of very great importance in maintaining the level of efficiency. It is stimulating and sustaining, like the will to believe. But we must first of all be perfectly clear about its nature in order that we may not burke the question of whether or not such responsibility is sufficient to keep a civil service wholesome and zealous, and how far, in its own nature, it is likely to break down, so that political responsibility must be introduced as the adamant monitor of the public services. For the first commandment is, Subservience!

The Fundamentality of Political Control

Long reflection on this problem, especially in relation to the vastness of the field of public administration and its extensive and intensive expansion, leads me to the conclusion that though judicial and quasi-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

judicial procedure and standards provide some guarantees of fair and beneficial administration, and though the codes of ethics, interior discipline, and all the arrangements to make these effective, offer the guarantees of inventiveness, agility and fruitful administration, *nothing is more important in our own day than the fundamentality of political control, or political responsibility.* The lack of emphasis upon this seems to me to be one of the major omissions of the volumes before us and to augur badly for the future serviceability of our public services. It is not without significance that England, which has, taken all in all, the best civil service in the world, first perfected its mechanism of popular and parliamentary control and proceeded only then to invent and utilize a body of public officials. If it was an accident, it was a happy accident.

It would seem to be a direct corollary of the increasing numbers in the public services that this problem should be given the pride of place. In private administration or business management the mainspring of the price-mechanism, with all its ramifications, ensures that business is fairly efficient within its own particular sphere of production. Graham has made the mistake of omitting consideration of the effect of this. Price, the reward obtained in fairly free competition, embodies the consumers' control of private producers and acts almost automatically. As someone has said, it constitutes a daily referendum on the quantity, quality and appropriateness of the time of production and delivery of goods and services. It may be that a producer (one may think in terms of a civil service producer in order to make the necessary comparison) wishes to make certain articles or perform certain services because he enjoys doing so or is actuated by what Friedrich would erroneously call "objective responsibility"; he believes people *ought* to have them. But, in fact, price settles the solvency of these practices; and unless the producer caters for effective demand, he will cease to cater at all. Similarly, there may be a good and zealous civil service working ferociously at things that it likes to do, or pushing ahead in its own particular department because it believes the product to be all-important in the public interest. Yet it, too, may not produce what the public desires and for which it is taxed to pay. Now many of the noblest human ideals cannot be realized by a price-controlled system, because such a system caters only for demand which is effective, which is supported by the ability to pay, and not for demand which is virtuous but impecunious. At this point public administration is created to fill the lacunae in the system of private enterprise. This necessarily means that in

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

every branch of public administration there is an element which is free of the consumer-fear and consumer-control which discipline the activities of business. If the extremely efficient correcting rod of price is abolished, what is to take its place? It is idle to put too much faith, though some faith must be put, in staff discipline or promotion methods or efficiency ratings and the rest, for these correspond merely to subordinate business management. They are instrumental rather than causative. They do not affect policy or direction or the spirit in which the enterprise is conducted. When the consumers individually are excluded from individual control of the producer, then all the consumers massed together as the electorate, and operating through a representative body, must control *with political sanctions* the producers in the civil service, so that those who do not fulfil their wishes can be corrected or replaced. Already the experience of the British semi-public corporations, like the B. B. C., or the London Passenger Transport Board, recently created in the hope of combining the flexibility and inventiveness of private business with public responsibility, have shown weaknesses properly causing considerable alarm. At the other end of the scale, in the Russian communist system the producers have had to be brought under a severity of control which must make the hair of the old socialist-syndicalists stand on end. Not merely has Russia had to rely upon elective councils of various kinds, but it has been obliged to use the millions of members of the Communist Party—"fulfillment brigades" and the rest—to harness and spur the producers to the satisfaction of the wants of the consumer. Subservience to the consumer is the first commandment.

Treasury Control and Separation of Powers

So consumers' control, or if you like, political responsibility, is fundamental; and how fundamental it is can be seen when one examines the control of the public service in the United States. This is dealt with very ably by Wilmerding (pp. 259-274) and has its echo in the *Report* (p. 80). The central failure, the most conspicuous flaw, in America is the impotence of the Treasury. As is well known, "Treasury control" is the secret of the success of British administration. That itself is the offspring of the British convention of collective Cabinet responsibility. This is vitally connected with the intimate relationship between the Cabinet and the House of Commons, and this again is a function of the relationship between the members of the Cabinet, the party whips and the party machine.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

This, finally, is made more effective by the continuous existence and action of His Majesty's Opposition.

What has America to show in comparison with this? Wilmerding answers:

> In the federal government . . . financial control is divided between the Treasury and the semi-independent Bureau of the Budget, while Congress retains the right to override all and sundry and write the budget in its own committees. Financial decentralization is the rule, and department heads have no hesitation in going over the head of the budget director in appealing for funds to Congress. Some states and municipalities follow the same procedure; others do not even make a pretence at holding the executive responsible for the budget, but invariably write it in legislative committees. Only a few operate under a real executive budget controlled in a department of finance (p. 263).

In view of this and of the criticisms made by Wilmerding himself of the attempts to remedy the defects, I have little hope that any further tinkering, such as he himself suggests, will be very effective, though I have no doubt it would be of some use. For the plain truth is that the serious defects in American government are a direct and natural result of the constitutional system of the separation of powers. I have observed a recent tendency in some American students to resent this elementary criticism; some even exhibit a queer kind of residuary patriotism which declares itself by saying, "Your system may be suitable for your country, but ours is suitable for our country." Now no one in America will suspect me of holding the view that all countries ought to have a uniform constitution. But I am certain that the United States will never have a healthy political system until it overcomes the separation of powers, not by trifling expedients but by a clear and direct constitutional amendment. In other words, side by side with the establishment of the discovered administrative techniques, bold and persistent action must be taken along the line of constitutional reform. Otherwise all the effort spent on securing better governmental personnel will bring to its protagonists only a harvest of dead sea fruit.

Political Neutrality

I turn now to consider some points in relation to the theory of the political neutrality of the civil service. On this question White makes these remarks:

> The general doctrine that civil servants should be neutral with respect to political issues, broadly construed to include the major aspects of foreign and domestic policy as well as partisan distinctions, has long

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

> been a characteristic of the British service, although threatened in some respects by events of the past decade. The application of this doctrine has important results, both within and without the service.
>
> Within the service, neutrality is an essential concomitant of permanent employment, especially in the higher ranks. By generations of custom and precedent, the loyalty of the civil service to the government of the day is universally accepted, both by ministers and by the service itself. The permanent service is anonymous and consequently escapes the difficulties which would inevitably ensue from a position publicly known. Members of the civil service may have private convictions of their own on matters of public policy, but they do not allow them to color the impartial advice which it is their duty to give to ministers (p. 44).

This is a just summary of the situation in the British civil service, and the *Report* (pp. 29 and 30) emphasizes the necessity of loyal acceptance by public servants of decisions made by the public and their elected representatives. If this neutrality should fall under suspicion, we should be faced with the social tragedy that the unskilled political ministers would hesitate to accept the skilled aid of the permanent experts. The question that arises from this issue, which has not been precisely enough discussed in the volumes before us, is the relationship between the political chief and the administrators. It is true that Wilmerding says, "The duties of administrative civil servants with respect to policy are therefore twofold: first, to present fully and fairly to the head of the department all the material facts and considerations which bear upon any issue which he is called on to decide; second, themselves to decide such issues as are delegated to them by the head of the department" (p. 26). He further says: "In the performance of the second duty, needless to say, administrative officers are honor bound to decide issues as their superior would have decided them, had he been able fully to consider them himself" (p. 26). The interesting question is whether the officer shall go further than "to present fully and fairly". Does this mean that he is to behave as the impassive servant who speaks only when he is spoken to? Is he to put his advice in the least rhetorical of terms and to make a positive duty of being neutral and colorless? Is he to criticize the politician's proposals not merely with scientific freedom but with warmth? This is a very important matter, and in England today there are two views current. No one, I think, excepting a few civil servants who are excessively cautious and temperamentally above the battle, would sponsor the view that the civil servant is to be no more than a moveable piece of office furniture. The view generally accepted is that so well expressed in the *Dardanelles Report:*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

> It is the duty of the official not to resign but to state fully to the head of his department, and should any proper occasion arise, to other members of the Ministry, what is the nature of his views. Then, if after due consideration, those views are overruled, he should do his best to carry out the policy of the government, even although he may not be in personal agreement with it. . . . Undue loyalty would tend to cripple independence of thought, and would leave the Parliamentary heads of the various departments without that healthy assistance which they have a right to expect, and which is at times much more likely to be rendered by reasonable and deferential opposition than by mere agreement resting wholly on the ties of discipline.

There is no doubt that the question of the independence of mind of the official, of his tenacity and unsubservient and candid persistence and initiative in pursuing and raising questions for the consideration of his political chief, is of first-rate importance at the present time and will wax in importance with the transfer of more and more duties from private to public enterprise. We must ask not merely for assistance from the public servant but also for persuasion. Yet if it should be an abdication and a public loss for the administrator to be an automaton set in motion only by the direct touch of the minister, it might be not only deleterious, but even dangerous *in the long run,* to introduce the rule that the administrator is not merely to have a policy which he suggests to the minister but a mission which he attempts to impose upon him. There is a great temptation to take this latter view, for we are all interested in developing the social services, and therefore we are to the degree of our enthusiasm tempted to prescribe whatever instruments and processes we think necessary for these specific things, without regard to their compatibility with the whole constitutional system. It is therefore necessary to be on guard against such temptations. If we went along in that direction, misled by specious phrases like "a more constructive type of individual" (See W. A. Robson, in the *Political Quarterly,* April-June 1936), it might not be long before we should arrive at what the *Report* (p. 58) calls "bureaucracy", "nominally responsible government which is out of responsible control." During the humiliating days when the Hoare-Laval proposals were under discussion, and especially in the House of Commons, December 19, 1935, grave insinuations were made against the permanent head of the Foreign Office, Sir Robert Vansittart, for his part in obstructing an energetic anti-Italian policy. That is where "constructive" civil servants land you![2]

[2] Since these opinions were first written their justice has been amply borne out by the outcry against Sir Maurice Hankey, Secretary to the Cabinet, for

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Educating the Administrator

These considerations lead to the problem of the kind of education required for administrative officials. A good deal, by the way, is said in the various volumes on the problem of the education and training of the subordinate classes of the civil service, but the administrative class is of pivotal status. Once the members of this class are properly selected, the politician may be sure of the proper liaison between the propelling force of the political assembly and the executive response of the subordinate grades. These are the thinkers, the planners, the coördinators, the advisers; they marshal the aid of the professional and scientific officials; they are the medium through which the current of directive energy passes downwards and outwards. How ought they to be educated and chosen? If we could track down and precisely define the administrative quality, we should no doubt be able to discover the perfectly appropriate technique for selecting, and then of prescribing the formula of studies. But the subject defies sharp definition. When it is attempted, we get the rather diffuse descriptions given by Wilmerding. For example:

> The characters to be drawn must perforce be composite. For administrative work, for example, it is not well to have men of a single pattern. Some must be active and aggressive to manage the business of the day; others somewhat more contemplative to take thought for the morrow. Some must be old to temper innovation with caution; others young to supplement judgment with invention. . . .
>
> In the *administrator* such qualities are to be desired as initiative, intelligence, judgment, imagination, openmindedness and tact. He must be able to devise new methods or alter old ones as new conditions arise; he must be able to understand and weigh truly the component parts of a problem calling for administrative decision as they are revealed to him through his own researches or those of experts. He must have an intimate knowledge of the experience of the past as well as a just appreciation of the contingencies of the future. Although he must be learned in the law, experienced in the political consequences of administrative action, skilled in public finance, and able to understand the purely technical considerations involved in a problem, he is neither a lawyer, a politician, a financier, nor a technician. Yet he is not a jack-of-all-trades. He, too, is a specialist like these others, but, unlike them, not in the limited field of a profession or a science. His specialty is method rather than subject matter. He is a coördinator of knowledge

the partiality of his evidence before the Inquiry into the Manufacture of Arms in May 1936. Those who had been loudest in the demand for civil service "creativeness" were precisely those who most keenly lamented Sir Maurice's intervention!

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

rather than a searcher into the inner recesses of one of its branches (pp. 32-33).

Wilmerding gets nearest to precision in the last two lines; the rest is merely commentary. The essence of the administrative character appears to be a combination of developed sagacity and drive. How is one to select for these qualities? It is obvious that the essential is not information, but mind, its capaciousness and tenacity. The English system, which is regarded as the best, chooses by open competition among the young men and women who have just taken a university degree in any combination of the normal university studies and, disregarding the subject in which they have achieved distinction, compares the respective degrees of attainment. Intellectual quality, with its inferential moral accompaniments, is the object of the search. It is very surprising, therefore, since this was avowedly the purpose of the English reformers of the middle of the nineteenth century, to find Friedrich venturing the following opinion:

> In England the dominant considerations are what might be termed social and cultural. The idea that a higher servant of the Crown should be a cultured gentleman dates back to the famous reform of the Indian service by Macaulay and was carried over from the Indian service into the home services. . . . It is well worth while to keep this "imperial" origin in mind when considering the peculiar features of the British civil service. It was a question of securing representatives of a "ruling nation," and the graduates of Oxford and Cambridge Universities seemed best fitted for that purpose (pp. 68-69).

Professor Friedrich has magnified a grain of truth so monstrously as to obscure the realities then and the situation now. The grain of truth is that, looking for the intellectual and moral qualities of good administrators, the flower thereof happened to be at the older universities. To base upon that the rest of his argumentative structure is entirely unwarranted. We, in England, look, in the main, for brains, and as for the qualities of demeanor, address and personal style, supposed to be tested by the *viva voce,* they are subordinate to the chief qualification.

It is suggested from time to time in these volumes that the solution of the problem of the education of civil servants lies largely, if not wholly, in the subjects they are to be taught. Frequent mention is made of economics, sociology, public administration and political science. Being a teacher of these subjects, I am not likely to deny their worth. But I hold to the theory first propounded by Macaulay and thenceforward loyally followed by the successive generations of

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

university teachers and civil service commissioners, that the subject of study is greatly subordinate to the methods of tuition. We all know the phrase, "to see eternity in a second, and infinity in a grain of sand"; we all know the remarkable tutorial achievements of Huxley, who would begin with the lecture on "A Piece of Chalk" and proceed easily and profoundly to the most difficult problems of geology. This is the essence of the method which has produced whatever excellence there is in the British administrative grade. It is not that we have sought a particular social quality, or that we have looked for "culture", or that we have attempted predominantly to widen the field of information, for we have asked, as T. S. Eliot has asked in his poem "The Rock", "Where is the knowledge we have lost in information?" We have attempted rather to stimulate the critical, analytical, searching qualities of the mind. It was said of a certain senior wrangler, that when he looked at a problem it appeared to crumble into its elements of its own volition: it is this penetrating, dismembering faculty that is sought and nurtured in the tutorial method practiced principally at the older universities. And it can be said that the excellence of British administration is coincident, for good or ill, with the excellence of the university tutorial method. Its characteristics are these. The student is not unduly overburdened with lectures, the kind of tuition in which he is largely passive. He is assigned, together with no more than one or two fellow students, to one tutor in each subject, and the tutor puts problems which the student answers by mastering the literature and presenting an essay which is usually subjected to an hour or more of ferreting, tenacious, Socratic examination, accompanied by suggestions to the student, indications, recommendations of further literature, the indication of alternative solutions and points of view, and a further spontaneous cross-examination of the student's defensive explanations. The students who care, and who are in that case cared for by the tutor, leave with their minds much disturbed. This is an exceedingly intensive tilling of the mental field. Quite unconsciously the student is preparing himself for work in administration, which will be rather like the process of holding proposals for action or inertia to the touchstone of piercing reason, so that the elements are ranged before one, to be recognized and evaluated as the politician then desires. This is the strength of the British method. It is put in another way by Mr. R. H. S. Crossman in his review of Joseph's *Essays in Ancient and Modern Philosophy* (*New Statesman,* November 30, 1935). He says:

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

> To study Mr. Joseph's style is to see both the strength and the weakness of Oxford philosophy as an educational discipline. It affords to the future Civil Servant or lawyer an unrivalled training in precision of phrase and elucidation of phraseology. Anyone who has really mastered this book will have a mind ready to expose loose thinking and sort cuts in arguments: he will in fact be a champion debunker of wordy nothings. But he will not be equipped with any understanding of the social problems of his own or Plato's world, nor will he have gained much insight into the real movements of scientific thought. He will have learnt not to understand problems, but to expose fallacies. Not one of his deep-seated prejudices or presuppositions will have been touched, though certain rationalisations of them will have been shown to contain contradictions. But he will have been armed with a dialectical skill sufficient to destroy the arguments of anyone he may chance to meet.

In spite of an evident antipathy to this kind of education, perfectly explicable by Mr. Crossman's social ideals (with which I happen warmly to agree), he cannot avoid giving it high praise. What if this tutorial method should be applied to history and political science and economics? Then surely the latent criticisms would turn into high praise.

So, with the extension of the civil service examination to these studies, the British civil service has been well supplied with potential administrators. I have emphasized this at length because it is of the utmost importance for reformers to realize that the quality of mind is more important than the nature of the information with which it is filled. But something more must be said on this question. The standard of English university education is extremely high. A far smaller proportion of the whole population goes to the universities than is the case in the United States, because a university education costs a great deal and because, though there are many scholarships, there are not yet enough, whether from the individual or the social point of view. The number of prizes is small. They have a high public prestige. They are much sought after. The consequence is that in addition to the standards and ideals of the teachers, there is the keen spur of ambition in the young men and women. They work at a pressure which is extraordinary. If my American friends wish to appreciate this, let them refer to the relevant pages in Dean Inge's *Vale*. Further, this severity of intellectual exercise is not confined to the universities. It goes back to the secondary schools, which have a much more rigorous intellectual standard than the American high schools.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

It will be seen that I have taken for granted in two respects the English practice, as it is discussed and recommended by Wilmerding (pp. 74 *et seq.*, and 86 *et seq.*). The first is the restriction of entrance into the service to *young* men and women; otherwise one is faced by all the difficulties of establishing the appropriate examinations, of re-training, of coping with the depression of morale which is the sequel to blocked avenues of promotion. The American practice of leaving the service open to older entrants is pernicious. The second is the correlation of the ordinary normal educational system, as conceived by educationists in the interests of education alone, and the various stages of entry into the civil service. Nor will it be ignored that much of the superiority of the English over the American system lies in the fact that the American system qualifies for appointment all who receive over seventy per cent, while the English system distributes situations in order of merit at the open competitive examinations.

Training

Discussion of the nature of administration, and of the relationship between the administrator and his political chief, led to the question of the education required for the administrative class. American students tend to be perturbed, and rightly so, because, while recognizing the splendid qualities of mind brought to the job by the administrative cadet, they are afraid that he is not sufficiently equipped with the necessary knowledge of his department and that the department does not provide an organized system of training to give him what is needed. It is the great merit of Walker's volume that it surveys the various branches of the English central and local government services and carefully assesses the extent to which such provision is lacking and ought to be made. It is impossible for me to make a detailed review of his investigation. He is perhaps better equipped with information than anybody in England, and since it is not a long book, American students are advised to absorb the information for themselves. Some observations are, however, relevant. This is what he says about the administrative class:

> The principal weaknesses of the administrative class as they appear to an outside observer are: (1) the lack of knowledge and appreciation on the part of administrators of the affairs of the outside world except in so far as they pertain to their work, (2) the lack of knowledge of the activities and policies of the departments of government, other than those in which they serve, and (3) the failure to consider public admin-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

> istration as a science with a body of fundamental principles, and the insistence on treating it as an art or mystery revealed only to those who have followed the initiatory rite through which they have passed, or alternatively as a faculty inborn, which is denied to all who are not blessed with it at birth. There are notable exceptions, but this indictment may safely be brought against the great mass of the members of the class. It is submitted that the principal reason for it is lack of proper training, although facilities for it are readily available (p. 13).

On the whole I agree with Professor Walker's criticisms, and readers of my *British Civil Service* and the relevant section in Volume II of *The Theory and Practice of Modern Government* will know that I inaugurated such criticism. I agree that the examination curriculum needs some amendments, but only minor ones, and that the organization of training should be undertaken more systematically. It may be that besides other methods which I have suggested, like the sending of administrative recruits on a tour of observation abroad for six or twelve months, or, as Sir Arthur Salter has suggested, giving them experience in diverse departments, we might adopt Professor Ernest Barker's proposal (*Political Quarterly,* April-June, 1936) that some be recruited at a slightly higher age limit, after they have already done social work or justified themselves in post-graduate achievements or traveled abroad on a fellowship and acquired further experience and greater qualifications.

Walker's general propositions on training suggest some questions. How far, and with what elaboration, is public administration itself to undertake the training of its civil servants? What is the objective? I can understand his proposal that new employees should be prepared "in the shortest possible time to do the work . . . accurately, quickly and intelligently." But the question really is: what standard do you expect to attain, and therefore, how will you measure "the shortest possible time"? Then again he says:

> Every employee should understand the nature and purpose of his own work and the work of his unit and his department, the relation of the work of his unit to that of the other units in his section or branch and to the department, the relation of his department to every other department in the governmental unit in which he works, and of his governmental unit to other governmental units (p. 183).

To what degree should this knowledge go? I can conceive of a degree, for example, in the definition of the nature and purpose of his own work, which would mean the entire re-education of the civil servant. A similar want of horizons is apparent in this next objective:

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

> The mental ability, natural equipment, and ambitions of every employee should be given the freest possible rein so that there shall be the least possible waste of energy and ability. That is, training should so develop the individual that his latent abilities are revealed and used, or, if it is impossible to use ideally all the officers with the same type of ability, it should be arranged that those best qualified are used first and to the greatest extent. This relates particularly to administrative ability (p. 183).

In this passage there is particularly evidenced a possible misconception of the nature of public administration. Public administration is an "established" service, that is to say, its enterprise is determined, as regards objectives and general standards of efficiency, by the fiat of law and regulation. There is a point, not perfectly determinable, beyond which the efforts and the abilities of civil servants are not wanted and may even be penalized because they are *ultra vires*. The employees may be capable of very much more than they are giving, but the public has not ordered more and will not pay for it. Thus the question becomes, how much extra efficiency can be obtained and is wanted compared with how much extra trouble and cost are necessary to its provision? In the *Minutes of Evidence* there are several observations made by business leaders to the effect that whereas in the civil service the job makes the servant, in business the employee makes the job. This ought to be remembered in discussions of training, for we do not want to embark upon a costly system of training if the result cannot be an addition to the public welfare. As Walker says, there is

> a plethora of well-qualified persons in every range of the service. In many cases the employees are much too good for their posts and there is a continual agitation for promotion. This leads to considerable dissatisfaction in the lower grades, where many of the employees are doomed to continue in monotonous work for the whole of their official life (p. 188).

It is not their lack of training which dooms them to monotony or obstructs promotion. The limit is that which the public through Parliament has set to the services it requires from those in the public service. I merely wish to put "training" in its place as an adjunct to the fulfilment of the orders of the political body and to salvage it from those who might come to regard it as a panacea. How many civil servants will take to training, and how seriously and for what length of time, unless their added efficiency is *wanted,* not as a social desideratum alone but as materially evidenced and rewarded by higher salary-scales and further possibilities of promotion?

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Government and Business

Graham sets out "to test the hypothesis that methods of administration tend to be similar in business and governmental organizations of comparable size. The idea is that so far as their organic affairs are concerned, business and governmental units are managed on the same level of efficiency rather than on different levels" (p. 339). He has, broadly, proved the first of these propositions, but that does not seem to me to be of much value. A really valuable contribution would have been the demonstration of the second proposition and, if possible, which he seems to suggest is the case, the causal relationship of the two propositions. It is of great concern to the public administrator that the statesman and the public should realize that not all government is inefficient or all business efficient. But though it is Graham's inferential task to demonstrate this, he does not satisfactorily establish any basis for our judgment. His closest approach to perception of the real nature of the problem requiring solution is this: "Both business and governmental activities are carried on by organizations of large numbers of persons, few of whom have a proprietary interest in the work of the organization" (pp. 339-340). But the common *lack* of a proprietary interest does not imply the common *possession* of a common interest of some other nature; and it is, in fact, in a difference of the spirit and purpose of the organizations that the problem of efficiency largely lies, and not in the possession or the lack of common methods. The selfsame instrument may be used for very diverse ends; and Graham has not even shown that the *methods* are exactly and minutely the same. If the observation were more microscopical (*one* government department and *one* business firm, instead of fifty of each), trifles, "light as air" but highly significant, might be discovered.

Graham is evidently a little troubled in his surmise of this objection, and he attempts to defend himself against it with this reasoning. He says: "it may be argued that *results* do not depend upon *methods*. This contention, although it may be sound in a single instance, ignores probability. . . . In other words, there is a sufficient correlation between methods through which affairs are administered and the intelligence with which they are administered to justify a study of methods" (p. 341). Yet when we compare the productivity of public administration with that of private enterprise, when we even merely compare methods, the distinguishing feature is not the intelligence with which they are devised and applied, but the *incentive* animating their

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

utilization. That is why I find this painstaking, and often very interesting, study rather ineffectual: the real problem to be answered is not accurately perceived and formulated. There are, for example, some highly fascinating pages in which experiments conducted by the Western Electric Company to discover the importance of state of mind upon both production and happiness are described. The very important question arises, how far the incentives of the test room, which made people happier and more productive, can be made to endure. It is not difficult, as the Russians have amply shown, and as Robert Owen showed in his factories long ago, to raise productivity for a short time by the use of various stimulants: by now the term "socialist competition" has spread all over the world. How far can government depend on such devices *in the long run?* That would have been a question eminently worth answering. It might also be that in the long run the devices to secure high productivity might cost more than the additional product they are designed to obtain. I am sure that Graham has an answer to this doubt, but he does not give it in the present study. It is surprising that in the section dealing with promotion problems he does not emphasize the following line of thought: To generate the dynamic feeling of emulation in the lower ranks of the employees in the public service, it is necessary to have more situations at the top than the direct work of the higher categories demands; what will be expended in the salaries of the extra situations thus required may be more than offset by the competitive, aspiring energies of the numerous candidates for promotion.

Nowhere does the inherent weakness of the study so clearly appear as in the section on "Dismissal". Graham has most admirably done the work of collecting and analyzing the material. The real questions are, however, not what are the procedures of dismissal and the division of power between staff and line in this function, but what are the occasions of, and reasons for, dismissal, and what is the spirit in which the decision is made. The spirit, as I know from personal experience in both business and public administration, is usually quasi-judicial in the latter and peremptory in the former, while the controlling motive in public administration is a standard of equity and purpose alien to the exigencies of the competitive market in private business.

Much concern is manifested by the commissioners regarding riddance of "deadwood". The *Report* says:

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

> In the normal course of public or private business, supervisory officers tend to leave such individuals on the payroll. It is easier to let things run on, especially when it is other people's money which pays the bill. The charitable, the eleemosynary impulse prevails over the efficiency motive, particularly if the department head must take some strenuous action to get rid of the deadwood (p. 50).

It would have been a great service if Mr. Graham had considered the extent to which the fact that in public administration one is operating with the money of the "phantom public" to achieve benefits for the "forgotten" men and women, away on the distant and unusually invisible horizon, makes the clearance of deadwood impossible. If we were severer with the deadwood, would there be such a ready response of candidates for the public service? Would not even those who would never actually fall within the definition believe that there was, nevertheless, a possibility of their doing so and, therefore, prefer private enterprise, in which there is at least the opportunity of rewards far higher than those offered by the public service? We must reflect on such considerations. If the conditions of recruitment, probation and promotion are appropriately strict, the amount of deadwood will be negligible. We must beware lest the business man find the argument about the deadwood a successful diplomatic way of subverting our purpose. We need not take too seriously the opinion ventured by former President Hoover, who needs no special introduction to American readers. He said (*Minutes of Evidence,* p. 478):

> People in government service become extremely proficient in what you might call repetitive operations. That is where precedent and experience have been built up. There you can gain great proficiency in government organization, but where you require that initiative and instant action, risk and judgment which is required in commercial life, you cannot reproduce it in government as successfully as in private life. There are many reasons for it. One of them is that in commercial life, error is measured entirely in money and in the light of total performance, and error in government is not measured altogether in the monetary loss to government. The loss of a wrongful decision or the failure to take initiative in government may be tremendous to the citizen. Great public criticism arises at once. The government official is sacrificed no matter what his character or past performance may be. At once government officials become unwilling to take risks. They are safe if they avoid responsibility. That is the deadening hand of bureaucracy.

The answer to the criticism of state activity implied in this argument is that it is rarely the administrator's duty to take a decision of

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the importance implied. Such decisions are for the political chief and his political advisers, and they are the men who should suffer the penalty of removal if they are wrong. If it happens in a political system that the politicians are inferior to the tasks of the modern state, then it is their business, but more especially the business of the reformers among the public and in the schools, to see that a new class of political leaders is fostered. The conclusion is not the one that Mr. Hoover seemed so anxious to arrive at, that he even gave it without being asked the question: "Therefore, fundamentally, the government ought to be kept out of as many activities which require other than purely repetitive action as possible" (p. 478). Yet in his innocence, he has provided us with the text for the conclusion of this review.

All the proposals examined, analyzed and finally recommended by the Commission—education, recruitment, training, classification, security of life-career, promotion-methods, efficiency reports, salary and retirement scales, civic rights and distinctions, and the rest—all are the indispensable constituents of a public service worthy of the potentialities of the men and resources of America. They will make the reserves of men like Mr. Hoover otiose.

On one condition, however; that we recognize that the problem of better government personnel is interlocked with the whole problem of the political system within which it works. In these days of domestic revolutions and international terrors I revert incessantly to the fear that perhaps our universities and research institutions are tempting too many men and women away from the vital task of political leadership. In mere youth we are inducted into the quiet and pleasant groves of the life academic and with reverence begin our search for the truth. Ineluctably we impose on ourselves, we, who are sincere and humble, the heavy burden of academic impartiality. Hundreds upon hundreds of men and women of brilliant intellectual gifts, of integrity and the purest social devotion, are walled-in, shut away from full public influence. Inevitably the task of leadership and direction is resigned to, and usurped by, second-rate characters and second-rate minds. Are we not mistaken? Are we not already paying for this political emasculation, and shall we not pay even more heavily in the future? Julien Benda indicted us for betraying the public by forgetting our scientific neutrality; perhaps our betrayal consists in having remembered it too well; the world cried for character, and we offered it only brains. The magnificent and necessary work of the Commission of Inquiry on Public

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Service Personnel can only be as fruitful in the full measure as it deserves if it comes to be accompanied by at least as much concern for the nurturing of wise and dynamic democratic leaders. Unless we find the means of bringing to the market place and the forum some thousands of men and women cleverer, more industrious and nobler than those at present seated in our legislatures and party congresses, our administrative pioneers will never be suffered to plant their techniques inside America's Next Frontier, the Public Service. Yet their bare attempt will set a standard in the public mind, and below that even the politicians of our present humiliating dispensation may blush to fall.

HERMAN FINER

LONDON SCHOOL OF ECONOMICS

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

REVIEWS

The General Theory of Employment, Interest and Money. By JOHN MAYNARD KEYNES. New York, Harcourt, Brace and Company, 1936.—xii, 403 pp. $2.00.

In his new volume Mr. Keynes attempts to formulate a "general" theory of employment, interest and money in contradistinction to the "classical" approach, which is applicable only to a special case (p. 3). According to his analysis, classical theory has failed to integrate the theory of value and the theory of money and prices (p. 293). The traditional view is that the monetary system simply creates frictional disturbances (pp. 19-20). Mr. Keynes sets out to consider the dynamic factors involved in determining the volume of employment (p. 89) and in this attempt is interested not so much in the factors that govern the *distribution* of the national dividend as in those that promote a *full utilization* of available resources.

For some reason the members of the "classical school" are Mr. Keynes's favorite *bête noire*. They are lumped together in a common brotherhood, and the theories of one are imputed to all. Other schools of economic thought are summarily dismissed or are not considered. Böhm-Bawerk is disposed of in a footnote which simply refers to Marshall's famous footnote. An appeal to a "classicist" to trounce an Austrian! No reference is made to Wicksell's effort to synthesize value and monetary theory some forty years ago or to numerous other such attempts. Exceptions to the short shrift accorded economists in general occur in the case of the mercantilists, of Gesell, and of the underconsumption school of trade cycle theory.

A summarization of Mr. Keynes's argument is very difficult. So many are the sunbeams he pursues, so obscure the argument, so loose the use of terms, that the reader is left bewildered by the roadside. Somehow a beginning must be made, and perhaps we can start the circuitous route best with Mr. Keynes's concept of the propensity to consume. According to his analysis, this is a "fairly stable function" (p. 95), so that on the basis of the psychological postulates set forth, the conclusion is reached that employment "can only increase *pari passu* with investment" (p. 113). Hence to increase employment, investment must be furthered, and this can be stimulated only if the money rate of interest is below the marginal efficiency

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of capital (pp. 136-7). The increment of employment induced by the increased investment is determined by the investment multiplier (pp. 115-7), which Mr. Keynes declares to be somewhat greater than unity (p. 251).

Would it not be equally possible, however, for employment to be increased by a reduction in wages? No, replies Mr. Keynes, for a certain volume of unemployment would exist irrespective of the willingness of labor to work for reduced money wages (pp. 9, 262 *et seq.*). This is termed involuntary unemployment, which is so defined (p. 15) that its existence apparently can be determined only after the event by a kind of post-mortem examination.

To condense the argument greatly, the sequence in economic processes is from investment to income to savings. Capital accumulation is a derivative of the propensity to consume and is stimulated by bank lending rates which are under the marginal efficiency on capital. Consumer thrift impedes capital accumulation and hence is something to be discouraged. As defined, savings are always equal to investment. Everything is in balance, and the economic system is brought into a happy accounting equilibrium.

In the space alotted to this review it is not possible to follow the intricacies of each of Mr. Keynes's thought processes along its particular tortuous path. Of necessity one must concentrate on certain aspects of his theoretical formulations. It is for this reason that in what follows, his theories of the rate of interest, occupying a central position in his whole scheme, have been singled out for special consideration.

Mr. Keynes fails to develop any consistent theory respecting the rate of interest, and it is precisely in his failure to do so that his entire edifice reveals alarming cracks. To list a few of the statements relative to interest which appear at different stages in the volume:

> As an approximation, the rate of interest can be identified with the rate of time discounting (p. 93).
>
> Interest is a "reward for parting with liquidity for a specified period" (p. 167).
>
> The rate of interest is highly conventional (p. 203).
>
> The current rate of interest depends on the strength of the desires to hold wealth in liquid and illiquid forms (p. 213).
>
> The money rate of interest is "nothing more than a percentage excess of a sum of money contracted for forward delivery" (p. 222).
>
> The author is apparently in agreement with Gesell that the rate of interest is a purely monetary phenomenon (p. 355).
>
> Interest is paid "because capital is scarce"; it "rewards no genuine sacrifice, any more than does the rent of land" (p. 376).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

From the above statement one is puzzled to know whether Mr. Keynes thinks of interest entirely as a monetary function (in agreement with Gesell) or as determined in part by "real conditions". At one point he speaks of the "pure rate of interest" (p. 208) as if it were something distinct from the money rate. From the point of view of his own argument this is a vital matter. If interest is not a purely monetary phenomenon, then it cannot be controlled wholly by the banking system, and hence investment cannot be stimulated continuously or solely by monetary means.

Mr. Keynes seems troubled by the inconsistency of his own interest doctrines. This shows itself in a growing skepticism of the efficacy of monetary policy directed towards influencing the rate of interest (p. 164). The illogical nature of his own position forces him finally to discard the central thesis that control of the money rate of interest is sufficient in the main to eliminate unemployment, and to conclude that "a somewhat comprehensive socialisation of investment" is required to secure an approximation to full employment (p. 378).

Passing to the dynamics of interest theory, Mr. Keynes asserts that the trade cycle is due to fluctuations in the marginal efficiency of capital and that the crisis results from a collapse in the marginal efficiency of capital, which precipitates a rise in the rate of interest (pp. 313-16). The remedy for the boom, he declares, is not a higher but a lower rate of interest (p. 322). In this way slumps can be abolished and the economic system kept in a state of semi-boom.

How then does Mr. Keynes, in his trade cycle theory, meet the contention that manipulations of the monetary rate of interest and their accompaniment of forced savings through a boom will bring about distortions in the structure of production of such a character that a crisis will be induced irrespective of monetary policy at the moment? Apparently he fails to see the importance of this aspect of the Böhm-Bawerk-Wicksell-Mises-Hayek theory of capital in relation to his own doctrines and contents himself with a categorical denial that credit expansion will allow investment to take place to which no genuine savings correspond (p. 82). The concept of forced savings, he declares, has no validity except in conditions of "full employment" (pp. 79-81).

A study of developments through the German inflation indicates that forced saving as an economic force was more operative in the period preceding hyperinflation, i. e., preceding "full employment", than it was during the period of hyperinflation itself. (See articles by Professor C. Bresciani-Turroni in recent issues of *Economica*.) It

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

was in the period prior to hyperinflation that the productive forces were diverted so largely to investment goods and that large sums were invested or "mis-invested" in new plant equipment. The increasing capital equipment at a time of great shortage in consumption goods resulted in a production structure so distorted in character that it could not long endure. Here again Mr. Keynes fails to distinguish between monetary and real conditions and fails in his objective to unify the theory of value on the one hand with the theory of money and prices on the other.

However much we may admire Mr. Keynes's crusading zeal, his latest work is likely to remain for the academician but an interesting exhibit in the museum of depression curiosities. To the inflationist, who will be able to bolster his specious arguments by appeal to authority, it will serve as a *vade mecum*.

BENJAMIN HAGGOTT BECKHART

COLUMBIA UNIVERSITY

Managing the People's Money. By JOSEPH E. GOODBAR. New Haven, Yale University Press; London, Humphrey Milford, Oxford University Press, 1935.—xi, 578 pp. $4.50.

Dr. Goodbar has set forth in clear language a refreshing and constructive analysis of the uses and abuses of money, credit and banking institutions and their relations to economic conditions. There will be much disagreement with his recommendations, but anyone interested in theory and practice in monetary affairs will find this book a contribution to the literature.

In the preface the author states: "It has been my aim to free the discussion from the unrealities often found in the classroom, and to clothe it with the concreteness of the counting room. Abstract reasoning has been translated into the terms of banking experience, and monetary theories have been brought into juxtaposition with monetary and banking practice. The ultimate aim, of course, has been to build up, out of experience, facts, and theory, a set of standards by which the body of banking policies and of banking laws may be intelligently criticized, and wisely reformed."

"Bank credit is the blood stream of business", according to the author, and the management of money includes the management of bank credit. The theory is presented that booms and depressions result from unrestrained divergence between savings and investments. The theory of J. M. Keynes is accepted that "changes in the price

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

level—in the purchasing power of money—necessarily result when current 'investments' get out of balance with current 'savings'" (p. 36). The real problem, after control over the volume of bank deposits has been attained, is believed to be that of balancing investment and savings (pp. 48-54).

Wall Street relies on bank credit, and speculative bank loans defeat stabilization through volume control of bank credit (pp. 99-118). The author disagrees with Hawtrey and other writers on inflation who contend that there was no inflation in this country in 1929 just because the price level did not rise, or because the prices in the United States were not materially out of line with world prices. "Stable prosperity in the United States would therefore appear to be unattainable unless and until the financing of capital goods and of speculative purchases of securities is segregated from our banking system" (p. 120).

Bank administration is not blamed for the chaos into which American banks have fallen as much as faulty laws and banking methods. The banks have devised lawful ways to violate the bank law on loans on real estate and loans to one borrower, and invest in securities as well as speculate through affiliates.

In chapter iv a historical analysis is presented of the development of the Bank of England policy from 1797 to 1928 in stabilizing monetary reserves. The Bank of England has had a much greater success in administering sound banking policies, maintaining confidence and stabilizing money, credit and banking conditions for the good of the business of the country than any other central bank. The present goal of British banking policy is said to be "price level stability", in which the Bank of England surpasses in success (pp. 237-243).

In treating of the English joint stock banks (chapter v), after a brief account of the historical, legislative and business development, some fundamental differences from American banks are pointed out, such as the absence of government examination of banks in England, the branch banking systems compared with our unit banking, and especially the fact that joint stock banks in England do not expand investments through bank credit (p. 311). This would certainly be a shock to an American banker. "The Joint Stock Banks are further responsible for their own lending policies, which avoid entanglements, with the inviting but dangerous financial ventures of speculators, and of the investment bankers who supply funds for the promotion of new enterprises and new construction. These, it

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

would seem, are the banking policies that account most largely for the stability of British banking . . ." (p. 325).

The banking acts of 1933 and 1935 are found to have many economic defects, and along with these numerous defects, despite the purpose of these laws to remedy the defects in the American banking system, the author finds that "it will remain true that the basic philosophy of the Federal Reserve System, and apparently of the vast majority of American bank executives, is directly opposed to the principles of banking . . . necessary to stable economic progress" (p. 417).

The author believes that banking in this country should be controlled. He admires the approximate stability of the volume of money and credit and the stability of prices in England. He believes the direction of bank credit can and should be controlled and sets up principles which he believes will be practical in bringing about that control for stability, including what he calls the major requirements for "the intelligent Management of the People's Money" (pp. 488-503). He points out that one of the outstanding needs is that of protecting the system from "improper personal interests." The author believes that there are rates of interest made by the laws of supply and demand and that to let such rates take their course would be an aid to monetary control. He points out that the control of the reserve bank rates has been ineffective and indicates that such control will continue to be ineffective. On these points arguments will undoubtedly follow. Just how an effective management of the banking system could be set up as indicated by the author without very definite management of the rates as a part of that management is not clear. Most students of monetary theory believe that the central bank control of money and credit necessarily includes the management of the bank rate. While the regulation of the flow of money and credit through the bank rate seems to stop credit expansion, it is admitted to be ineffective in starting credit and business expansion within any time limits that seem to make such a tool a practical regulator of credit affecting business. On the other hand the rates of interest charged by private banking institutions and finance companies in many communities verge upon monopoly, and even with the lowest money rates in history in the money markets 40% interest is still being charged in many communities of the United States. These communities are for the most part the cities and industrial centers. These rates are charged by finance companies

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

and the sellers of goods on the installment payment plan. These lenders in turn borrow from the banks at low rates. The volume of such credit outstanding is estimated conservatively at from six to eight billion dollars.

IVAN WRIGHT

UNIVERSITY OF ILLINOIS

Soviet Money and Finance. By L. E. HUBBARD. London, Macmillan and Co., Ltd.; New York, The Macmillan Co., 1936. —xix, 339 pp. $4.50.

This book is described on the jacket as "the first fully detailed and scientific account of Soviet finance that has appeared." Contrary to the usual practice, this is an understatement, for Mr. Hubbard has not only written a truly admirable survey of the financial theory, methods and policies of the Soviet Government, but has also carefully analyzed them and, by aptly comparing them with the theory, methods and policies of the capitalist nations, has reached some necessarily tentative, but also highly significant and revealing conclusions. The need for an objective and scholarly account of Soviet money and finance has long been felt by all serious students of the Soviet Union, but information on the subject, even from Soviet sources, is surprisingly scarce. The volume under review, therefore, is a pioneer work and as such deserves a particularly warm welcome.

The difficulties which besiege the student of Soviet finance are truly formidable. To begin with, some of the essential data are not available. In his lucid chapter on prices—a fundamental problem in a planned economy—the author observes that "the detailed methods of price planning are kept secret"; and he remarks again in his discussion of saving and investment that "the Soviet Government does not publish any details of the finance of industry showing total accumulations, losses, expenditure on capital repairs and replacements. It contents itself by making a bare statement of total industrial profits and the amount of total grants from the budget." The publication of the indices of prices has been discontinued for several years. The author points out, moreover, that "ruble prices have no relation to world prices and that they are really worthless for the purpose of arriving at an index of comparison between the ruble and capitalist currencies." Another bewildering aspect of Soviet economics is the fact that familiar terms, such as money, savings, profits, turnover capital, etc., have in the Soviet Union a meaning that differs vastly from the meaning of similar terms under capitalism. It is the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

careful analysis of these differences that makes Mr. Hubbard's volume particularly valuable. Even more distressing to the student of Soviet financial methods are the frequent and drastic changes to which they are subject. The latest and most significant of these changes was the complete abolition of the rationing system of distribution that became effective on January 1, 1936, and required a certain revision and emendation of the previously written chapters of Mr. Hubbard's volume. Special mention should be made of the excellent discussion of the part that indirect taxation plays in Soviet finance: about 88 per cent of investments for national development was provided in 1934 by the turnover tax, which is a general sales tax.

Soviet Money and Finance is remarkably free from either the virulence or the indiscriminate praise which the readers of current books on the Soviet Union have usually to endure. Its conclusions are in keeping with its style, which is concise, sober and clear. Mr. Hubbard believes that the "path travelled by the ruble since the beginning of 1935 has shown a remarkable convergence toward orthodox capitalist principles." And he wisely writes that "the most that can be said at the moment is that a national economic structure based on socialism and planning has proved capable of existence; whether it will ever prove more efficient, more equitable and intrinsically an improvement on economic systems based on private ownership and enterprise remains to be seen." His book cannot be recommended too strongly to those who are interested in Soviet Russia and also to students of finance and monetary theory.

MICHAEL T. FLORINSKY

COLUMBIA UNIVERSITY

Aspects of the Theory of International Capital Movements. By CARL IVERSEN. London, Humphrey Milford, Oxford University Press, 1935.—536 pp. $5.00.

Internationale Kapitalbewegungen. By RAGNAR NURKSE. Wien, Verlag von Julius Springer, 1935.—x, 248 pp. RM. 7.80.

Les Mouvements Internationaux des Capitaux. By JEAN MALPAS. Paris, F. Loviton et Cie, 1934.—700 pp.

The almost simultaneous appearance of these three monographs on international capital movements is of interest not alone because of the importance of the subject, but also because the authors are of different nationalities, write in different languages, and stem from different schools of economic thought.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Professor Iversen of the University of Copenhagen and Dr. Nurkse, however, share an overlapping bibliographical background. They follow Professor Ohlin of Sweden in his treatment of international trade as part of general localization theory, where costs of transfer, relative immobility of factors of production, complex monetary systems and governmental regulation call for a multiplicity of markets in space. They are interested especially in the transfer mechanism under gold and paper standards, the rôle of gold and short-term capital movements in that mechanism, the effects of capital movements on relative sectional price levels, on the prices of factors of production, etc. Iversen contents himself with an exhaustive reëxamination of the inductive studies of White, Hobson, Taussig, Angell, Viner, Wilson, Williams and Graham to prove, so far as complex historical data allow, the superiority of the "modern" theory, which holds that the real transfer of capital in the form of goods takes place directly through shifts in demand, to the "classical" theory, which postulated an indirect connection between capital and goods movements established through price changes (p. 312). Nurkse, in a highly compact exposition, independently elucidates the modern theory and attempts further to explore new territory in applying Austrian capital theory (to which he does not unreservedly subscribe, see footnotes, pp. 164 and 200) to describe the relation of capital movements to the international concurrence of business cycles. Dr. Malpas gives only sketchy attention to these problems and devotes himself to (1) outlining the pre-war, wartime and post-war balance of payments in England, the United States, France and Germany, and (2) examining suggestions to restore long-term capital movements, which have dried up since 1928, and to reduce short-term capital movements of the erratic type.

Iversen's treatment of the transfer mechanism is suggestive rather than exhaustive. His stress on movements of short-term capital leads him to underestimate the importance of gold flows, and he fails to show how deflation is produced in the lending country under paper conditions, if the short-term funds flowing to it are invested by foreigners rather than held as bank deposits. He does, however, give great emphasis to the influence of credit policy in both lending and borrowing country in the completion of the real transfer (pp. 321 and 470).

Iversen has given a valuable review of the theoretical literature and controversy in the field, his survey and criticisms of the reparations discussion being particularly illuminating. His point of view

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

has been naturally very much influenced by the Scandinavian equilibrium school. While his discussion of the transference of buying power through equalizing short-term capital movements is not complete, and while exception may be taken to his position that the difference between the transfer mechanism under gold and paper conditions is merely in the order in which the different means of adjustment begin to operate (especially pp. 313, 315, 513), yet one cannot be other than grateful for the valuable contributions to the subject which he has made.

Nurkse devotes about half of his monograph to the portion of the subject to which Iversen limits his whole book. His discussion of the terms of trade is similar, the direction to be taken by the terms of trade after a capital movement being theoretically indeterminant, although the presence of home-market goods and immobile factors of production, toward which, in most cases, the borrowed buying power is to be devoted, lends an *a priori* presumption that the change will be that postulated by the classical analysis (pp. 108-9). In his discussion of the transfer mechanism he lays undue weight on gold movements, although he suggests that deflation in the lending country may be completed by short-term capital movements which reduce the velocity of the total money (pp. 137-8). One can find fault, too, with his mechanistic concept that when, on the gold standard, gold is drained to transfer buying power abroad, the gold will return after the real transfer has been made in goods (p. 60). (On the paper standard, the rate of foreign exchange will return to its previous position after depreciating.) This leads him (pp. 71-2) into the obvious error that losses inevitably occur when long-term capital movements take place between paper standard countries.

Relative to international stages of production and the effect of capital movements through changes in the terms of trade on prices of intermediate products at various stages, Nurkse is feeling his way into a field which promises considerable results. Moreover, his attempt to relate Austrian monetary theory to capital movements is stimulating, particularly in the section applying the theory to the pre-depression American experience. Unfortunately limitations of space prevent the present reviewer from giving an adequate critical analysis of this portion of the book. It is sufficient to say here that Nurkse has made a brilliant excursion into a theoretically dimly lighted territory.

Malpas' thesis is considerably less of a contribution to the theory of the subject. His background in monetary and international trade

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

theory stems almost entirely from the views of Aftalion and Rist and has apparently been uncontaminated by any of the advances made since 1930. His insistence on the "psychological" aspect of the foreign exchanges, which can be reduced to the simple and generally acceptable proposition that capital flight ("autonomous" short-term capital movements in Nurkse's phrase) may change the rate of foreign exchange directly, as well as price changes which affect it through the commodity balance of trade, is a little wearisome. He gives as a primary cause of international capital movements a "superabundance or scarcity of savings" without relating the amount of savings to the internal demand in terms of a marginal analysis. Despite these and other theoretical shortcomings, his work is valuable in that it gathers into one volume much of the little known investigations that the French have been making on the balance of payments and reviews in brief a number of plans for the amelioration of the present depressed state of international exchange, including Milhaud's international clearing plan, the scheme for consolidating frozen short-term credits into long-term securities, etc.

C. P. KINDLEBERGER

NEW YORK CITY

A Külföldi Kölcsönök Hatása Az Adós Ország Gazdasági Helyzetére (*The Effects of Foreign Loans on the Borrowing Country*). By ZOLTÁN DE ÓVÁRI-PAPP. Budapest, R. Gergely, 1934. —xvi, 232 pp.

Dr. de Óvári-Papp is one of the most capable of the post-inflation Hungarian monetary economists. In this volume he sets himself the twofold task of acquainting his Budapest colleagues with the balance of payments literature of foreign countries and adding to that literature the record of the experiences of Hungary. In the background of his narrative lurks the conviction, common to most Hungarian economists, that much of the behavior of capital movements, prices and foreign exchange can satisfactorily be explained in the terms of the quantity theorist. Commencing with a review of the findings of Graham, Taussig, Viner, Williams and Wood, the author turns to a detailed examination of German and especially of Hungarian experiences. The latter are remarkably well suited to an analysis of this character. Hungary is a small nation embracing but 8,000,000 individuals, whose economic behaviors are recorded with exceptional detail in the files of the Central Statistical Office. Particularly valu-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

able in this connection are the estimates of the international balance of payments prepared annually along lines developed by the United States Bureau of Foreign and Domestic Commerce. Added to this is the fact that Hungary's economic international position is the function of but two variables—foreign trade and capital. The invisible items, including tourist expenditures, emigrant remittances, shipping fees and railway charges, are relatively unimportant and show little prospect of assuming greater significance.

The author's analysis of the effects of foreign borrowing follows along the traditional lines of the American writers. He carries the examination one stage further, however, by making an effort to find statistical verification for the theoretical distinction drawn between production and consumption goods and by utilizing quarterly indexes in examining the short-term fluctuations of prices and foreign exchange rates. However, much of the value of this latter statistical refinement is impaired, as the author himself is prepared to admit, by the fact that the statistics employed have some shortcomings. Having in mind Hungary's post-war mistakes, when much of the borrowed funds were promiscuously dissipated, De Óvári-Papp stresses the distinction between borrowing for productive and borrowing for unproductive purposes.

Confining himself to a scrutiny of the record of the past, the author sees no occasion to go beyond an examination of the initial phases of borrowing and thus leaves the problems surrounding the repayment of loans unexplored. This is particularly significant in light of the task of the repayment of these loans which will confront Hungary in the future. It will be recalled that as a result of reckless borrowing in the years following 1924, Hungary's foreign indebtedness on the eve of the financial collapse of 1931 amounted to 4,300,000,000 pengo, requiring an annual service charge of some 300,000,000 pengo. In terms of Hungary's probable future trade balance, an annual service charge of this magnitude is beyond the country's capacity. It represents an amount equal to total exports at a time when imports virtually equal exports, leaving but an insignificant favorable balance of trade.

Hungarians make much of the contention that the precarious state of their international accounts is ascribable to the sudden cessation of international commercial intercourse. The artificial barriers to international trade sprang up before the country had occasion to utilize the results of its productive investment of foreign loans in the repayment of its foreign obligations. Others, however, keeping in

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

mind the predominantly agricultural character of Hungary's economy, are of the opinion that even if agricultural prices return to their peak level, the country would not be in a position to remit more than 100,000,000 pengo annually toward the repayment of its foreign obligations. In the light of these circumstances it is to be expected that much of the thought of contemporary Hungarian economists should be turned to the problem of international balance of payments.

De Óvári-Papp has rendered a significant service in committing to record the basic monetary features of the post-war influx of foreign capital into Hungary. Nor is the value of his contribution impaired by the fact that he has chosen to confine himself to a verification of already advanced theory. Evidence in Hungary's periodical literature is abundant that in the not distant future the small but active group of Budapest economists will have much to contribute to our understanding of the operations of the international balance of payments. In the meantime, students of capital movements on this side of the Atlantic, seeking an ideal laboratory for their researches, would do well to watch the future behavior of Hungary's international accounts.

L. LÁSZLÓ ECKER-R.

WASHINGTON, D. C.

Karl Marx. By FRANZ MEHRING. Translated by Edward Fitzgerald. Edited by Ruth and Heinz Norden. New York, Covici Friede, 1935.—xxv, 608 pp. $5.00.

Biographies of Karl Marx in English are not lacking, but only a few succeed in resurrecting the real theorist and man of action. John Spargo's *Karl Marx* is a worthless compilation. Otto Rühle fell under the spell of psychoanalysis and produced a Marx with an inferiority complex. His biography is as distorted as Edward Carr's is misleading. Only the volumes of David Riazanov and Max Beer, and now the one of Franz Mehring, are worthy of consideration by the English reader. Of these the last is the most complete and the most scholarly. The author, one of the best scholars of Marxism in his day, wrote the volume under review during the closing years of a lifetime spent in journalism and in the careful study of the documents. With his extensive knowledge of the then available sources, he was able to produce what will remain for many years the standard book on the father of modern Communism.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Marx's life is the perfect example of the genius in whom thought and action followed each other like the Siamese twins. Even before he completed his evolution from idealism to historical materialism, he was already waging a ruthless war on the absolutist Prussian monarchy in the *Rheinische Zeitung*. When he was forced into exile he not only spent days and sleepless nights studying the history of the French Revolution and mastering the theories of the utopian socialists and of the classical economists, but also attempted to organize a chain of Corresponding Bureaus linking the scattered Communist nuclei. His work in the Communist League is today common knowledge. It was for this organization with an international character that Marx wrote, Engels assisting, the now world-famous, but the then comparatively obscure, *Communist Manifesto*. No one who has read it can ever forget the classic description of the rôle of the bourgeoisie in modern society, its vigorous tone and its chiseled form which have earned it a place in world literature. The *Manifesto* contained no idea with which either its authors or earlier and contemporary socialists had not already wrestled. But nowhere before was the Communist world outlook presented with the same clarity or compressed into such a small space. With the defeat of the revolutionary movement of 1848 and 1849, to which Marx sacrificed what little he had inherited from his father, he settled in London, there to work on *Das Kapital* amidst the greatest suffering and privation to himself and to his family, and there to devote himself to the foundation of the First International which soon became a nightmare to the European bourgeoisie. It was he who framed the *Inaugural Address* and *Provisional Rules* of that organization, purposely giving them a mild form in order to draw together British trade unionists, French and Belgian Proudhonists and German Lassalleans. And it was again for the same organization that Marx composed, after the defeat of the Paris Commune, *The Civil War in France,* one of the most brilliant polemics that ever came from his pen. For the benefit of those self-styled Marxists who zealously treasure this document as the history of the Commune, let it be said that it was Marx's aim not to write a critical history of the Commune, but to defend its honor against the slanders of its enemies.

Marx was not only a tactician and organizer of labor. He was also one of the greatest thinkers of all time. He gave the proletariat a theory of life and filled it with a hope for the future. He formulated the historical materialistic theory, which, simply stated, means that men make their own history "but under very definite

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

presuppositions and conditions", among which "the economic ones are finally decisive." Marx and his co-worker Engels never intended to ignore other historical causes, such as the political and the religious and "even the traditions which haunt the human minds." They taught, however, that in the final analysis it is "the mode of production of material life" which "determines the social, political and intellectual process of life in general." A change in the mode of production causes a disturbance in the existing property relations. Social revolutions follow. Capitalist society is the final form of social production in which there is an irreconcilable antagonism between the exploiting and exploited classes. In *Das Kapital,* brilliantly summarized by Mehring, with the aid of Rosa Luxemburg, Marx analyzed the mechanism of this society, demonstrating how the workers produced surplus value, the source of the ever-growing accumulation of capital, and how this surplus value was distributed among all the non-laboring members of society. The inevitable conclusion is that the entire capitalist system is based on the unpaid labor of the worker, that this exploitation can cease only with the abolition of the wage-system. The glaring contradictions developing within capitalist society will ultimately lead to its overthrow by the organized proletariat, which will seize political power and wield it against its former exploiters. Prophetically enough, Marx in his later years expected the social revolution to break out in Russia, carrying down with it also the Hohenzollern dynasty.

Franz Mehring was not one of those Marxists who slavishly treasure every word of the master. He is justifiably critical of Marx in his relations with Lassalle and with Bakunin, blaming where blame is merited. The result is that from his scholarly pages emerges a Karl Marx, at once the genius and the human being, a Prometheus and not a Jupiter.

However, Mehring's volume suffers from a few minor defects. It seems surprising to the reviewer that a Marxist like Mehring should have neglected the political and economic background of Marx's early years, a background sketched with masterly skill by Riazanov in his popular book on Marx and Engels. Moreover, one looks in vain for an analysis of the philosophies of Fuerbach and Stirner, both of whom occupied a significant place in the Young Hegelian Movement, or for a description of the influence of Moses Hess and Lorenz von Stein on the growth of Marx's ideas. It is perhaps due in part to such omissions as these that one cannot sense clearly Marx's evolution from idealism to historical materialism, an evolution followed with

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

clarity and insight by August Cornu in his *Karl Marx, l'homme et l'oeuvre*. Thanks to the appendix notes supplied by Eduard Fuchs and based on the latest researches of the Marx-Engels Institute, the English edition has been considerably enriched. It should be read by every student of the social sciences.

S. BERNSTEIN

NEW YORK CITY

Samuel Gompers, Champion of the Toiling Masses. By ROWLAND HILL HARVEY. Stanford University, Stanford University Press, 1935.—vii, 376 pp. $3.75.

This volume has the eminent advantage that its author made a thorough investigation of the archives of the American Federation of Labor, not heretofore made public in the biographical sketches of Gompers. He was aided in completing his book by a grant-in-aid from the Social Science Research Council. Hence we find here a most completely documented history of Gompers leading aggressively an American Labor Movement in the midst of all the opposing forces that he had to contend against.

But Harvey's "evaluation" of both Gompers and American history, notwithstanding this abundant documentation, seems to me to be wrong. I knew Gompers intimately during the last twenty-five years of his life, and I remember conferring with him in many of the events which Harvey describes. I never could treat Gompers so snippingly nor traduce him so smoothly as a mountebank seeking only the limelight. There never was a more sincere or honest man in American public life, as I know from detectives set on his track by employers, nor a man more moderate and conciliatory in his efforts as a labor leader to reach agreements with employers, as I know from working with him in the National Civic Federation. It was these very facts that brought upon him from all the radical, revolutionary and socialistic elements the charge of "labor fakir". And I see throughout Harvey's book the same characterizations, more often as innuendos than hecklings.

And I cannot see, from the standpoint of historical interpretation, that Gompers was out-of-date in face of the issue between craft unionism and industrial unionism. Contrary to Harvey's allegations, I know that he gave every encouragement that was possible for him in his position to the several industrial unions that were forming, some of them eventually admitted to the American Federation of

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Labor. He was not a dictator, like the head of the Knights of Labor whose philosophy of universal solidarity Harvey admires. Gompers himself had created the constitution of the Federation in order to reject this philosophy and to make its president merely a mediator and negotiator between the conflicting national organizations within the Federation. His power was only what he called "moral" power.

And he had a truly American philosophy of self-help instead of the political and governmental help whose rejection by him the socialists and Harvey condemn. He was a *laissez-faire* economist exactly like the capitalists, and this made him a "collaborator" with them on great issues, like the war and anti-trust legislation, which Harvey, like the socialists, cannot understand.

He knew that he could not help those laborers to organize who did not have the capacity to help themselves by standing by each other and by their chosen leaders. I know this of my own experience with him, which I have recited elsewhere. He did not idealize the workingman as neither did he idealize the capitalist. Yet he did idealize a system where they could work together as organizations. This he thought was guaranteed by the principle of American liberty.

It seems to me too bad that, with such an abundance of documents, Harvey could not appreciate the greatness and patriotism of Gompers. His scholarship and research are without understanding.

JOHN R. COMMONS

UNIVERSITY OF WISCONSIN

Industrial Planning Under Codes. By GEORGE B. GALLOWAY and associates. New York and London, Harper & Brothers, 1935. —xiii, 428 pp. $4.00.

Section 1 of the National Industrial Recovery Act avowed it "to be the policy of Congress . . . to provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among trade groups, to induce and maintain united action of labor and management . . . to promote the fullest possible utilization of the present productive capacity of industries, to avoid undue restriction of production (except as may be temporarily required). . . ." "To effectuate the policy . . ." the President was authorized, in Section 2 (a), "to establish such agencies . . . as he may find necessary. . . ." Section 3 (a) provided that "upon application to the President" by trade associations or similar groups he

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

might, under certain conditions, approve "codes of fair competition" submitted by such groups.

In the two years of the life of the industrial control provisions (Title 1) of the NIRA thousands of such codes were submitted and upwards of seven hundred of them approved. The National Recovery Administration, unmentioned in the statute, was set up to administer these provisions. Its task was the dual one of the direct management of the code-making process and the indirect supervision of the staggering job of code administration, the direct and immediate responsibility for which was assigned, severally for the various codified industries, to code authorities, agencies which also were innocent of mention in the statute.

This book is a symposium by nineteen authors, written while the NRA was still a going concern. The majority of them were NRA or code authority officials when it was in preparation in the early months of 1935. It was published soon after the "schechtering" of the code structure by the Supreme Court. Five of the authors were deputy or assistant deputy administrators. Four of them were directors of code authorities or other officials of those agencies.

Despite the dominance of official personnel in its authorship, the book for the most part is marked by honest and independent analysis and appraisal. It is not surprising that most of the authors occasionally relapse into expressions of official optimism which now, in retrospect, must seem to them unjustified. The core of the book is the series of fifteen chapters devoted to the discussion of industrial planning in as many major codified industries. The authors' purpose, as Mr. Galloway points out in the preface, is "to bring out in a concrete way (from code to code) what industrial planning involves, what problems arise in connection with it, and what devices have been used or may be used to meet them". Their object is not "to prove a thesis or to attack or defend the NRA", but rather "to describe impartially the experience under codes of a group of leading industries in order to determine what, if any, planning they have done."

The fifteen industries considered are cotton textiles, woolen and worsted goods, iron and steel, bituminous coal, petroleum, lumber and timber, chemicals, paper and pulp, rubber, electrical products, machine tools, automobiles, men's hats, construction and retailing. Apart from the fact that the more important of the apparel trades (men's clothing, the coat and suit industry and the dress industry) are omitted, the list seems fairly representative of the codified industries.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The code-by-code appraisals are preceded by four introductory chapters, written by Mr. Galloway, on "the concept of industrial planning", "industrial control before NRA", "the NRA and industrial planning", and "techniques of code management". They are followed by three concluding chapters, dealing respectively with "the legal basis of industrial planning", "small business under the NRA" and "industrial planning and 'fair competition'". At the end of the volume is a four-page bibliography of selected books and pamphlets on industrial planning.

The final chapter, on "industrial planning and 'fair competition'", by Dr. Lewis L. Lorwin, an outsider who, from the nearby Brookings Institution, closely watched the spawning of the codes and their subsequent activities, contains an appraisal of the fifteen appraisals. His summary of the record seems faithful to the facts. He says (p. 414):

> The story of the fifteen industries shows but little if any progress in . . . long-range [or even, this reviewer would interpolate, in short-range] planning. What has been accomplished is largely of a subsidiary character. The structure which has been erected in the form of code authorities to be used for planning is merely a beginning; some would say, a poor beginning, in view of its one-sided composition and domination by business men. The spread of uniform cost accounting systems is a step forward. Most important so far is the foundation laid for statistical reporting by industries of data which may serve as a basis for long-range policies, though in this respect also much remains to be done in the way of organizing the collection and analysis of essential data. Negatively the experience of the NRA has thrown some light on what are the real difficulties of planning under our present industrial set-up and on the ways by which narrow group objectives lead to pseudo-planning.

Dr. Lorwin suggests the following as the more important reasons explaining this very disappointing record of progress: (1) hasty code-making, (2) conflicting pressures of bargaining groups, (3) conflict of interest between different business groups within each industry, (4) conflict between labor and capital, (5) ineffectiveness of consumer representation in the NRA itself and the entire absence of it on the code authorities, (6) the technical complexity of American industry, (7) "a restrictive concept of balancing supply and demand", (8) the control of code authorities by business men concerned primarily with maximum short-run profits, and (9) lack of aid from the NRA itself to the code authorities.

P. F. BRISSENDEN

COLUMBIA UNIVERSITY

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Industrial Germany: A Study of Its Monopoly Organisations and Their Control by the State. By HERMANN LEVY. Cambridge, at the University Press; New York, The Macmillan Co., 1935.—x, 245 pp. $3.50.

Dr. Levy sketches broadly the development of quasi-monopoly in the major German industries. He discusses with equal clarity the forces impelling this development, the forms it has taken, social policy and the consequences that have emerged. His treatment shows how much light can be thrown by a skilled investigator upon this aspect of evolving capitalism by seeking the similarities between the developments of German, English and, less frequently, American industry, and attempting to account for their differences.

Dr. Levy surveys the explanations that have been given of the causes of concentration of industry and rejects each as inadequate. He rejects also an eclectic explanation and finds the desired single cause in progress in the provision of mass transportation facilities. It is, of course, true that the cheapening of transportation makes possible large-scale production. But without other forces, e. g., changes in the technique of production and selling, this single "cause" does not produce monopoly organization. The British cotton industry has reaped enormous benefits from the widening of its market as a result of improvements in transportation. Yet after a hundred years of such benefits monopoly forms are shadowy and sporadic. Tariffs might be regarded as increasing transportation costs and a deterrent to monopoly, but Dr. Levy emphasizes their operation as "an integrative factor in the organisation of national industries" where other conditions are favorable.

To American business men who seek salvation in the modification of the anti-trust laws and the revival of the code of fair competition Dr. Levy offers a balanced appraisal of the cartel movement in Germany. Cartels tend to keep alive the weaker producers, although this tendency is offset by concentration within the cartel. Policies that promise high profits have usually been undermined by the attraction of new competition. Effective cartels face the opposition of those engaged in subsequent stages of production and distribution who seek cheaper outside sources of supply. Vertical integration to overcome these difficulties weakens the position of the unintegrated members of the cartel. The cartel, therefore, is no final solution of the problems of industry, nor is it an alternative to trustification. It is rather a transitional form. Increasingly large firms have developed within

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the German cartels and have found the cartel worth preserving. The trust has proved the more effective instrument for the rationalization of industry.

The capitalist countries have followed much more nearly than is generally realized a common course with regard to the monopolistic reorganization of industry. America stands apart in having obstructed cartelization (except for the brief adventure of the NRA) Germany sought social control by reference to the criterion of the "public interest"—in practice not very different from the tests established by the Sherman Law. As Dr. Levy points out, such a criterion involves either the prohibition of all monopolistic forms or judgment in terms of economic consequences. In Germany and America both have been rejected. Judgment by consequences he claims to be a problem too complex for any practical jurisdiction, a decision which appears to preclude any real control. The Cartel Law of 1923 against the "abuse of powerful economic positions" suggests recognition of the necessity for control, and some of the abuses of cartels have been attacked, but there has been no general limitation of the activities of either cartels or trusts. The only indication of any definite policy in Germany, England or America lies in the attempts compulsorily to cartelize the coal industry in all those countries as a means to reorganization.

No doubt one of the major reasons for the lack of policy lies in the difficulty of appraising the consequences of the evolution of quasi-monopoly. Dr. Levy concludes that the reduction of costs has been as important as the fixing and raising of prices. Concentration is obviously aimed at prices higher than those that would otherwise prevail. Dr. Levy properly denies the possibility of empirical proof of the achievement of this objective. He denies also the possibility of any objective decision as to what level of prices is "too high" but believes that the public, suspicious of the growth of monopoly, has become more sensitive to changes in prices and makes "a sort of instinctive judgment of 'unduly' raised prices". Fear of outraged public feeling makes monopoly cautious of the exercise of its power. The state must reconcile the new industrial organization to the necessities of "the general economic welfare", although it is hopeless to attempt to do so by setting up hard and fast rules. After such an excellent discussion these are frail conclusions concerning one of the most fundamental economic problems of the time.

ARTHUR ROBERT BURNS

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Made in Japan. Second Edition. By GUENTHER STEIN. London, Methuen & Co., Ltd., 1935.—viii, 206 pp. 7s. 6d.

Social Aspects of Industrial Development in Japan. By FERNAND MAURETTE. International Labour Office Studies and Reports, Series B (Economic Conditions) no. 21. Geneva, International Labour Office, 1934. (May also be obtained through World Peace Foundation, Boston and New York.)—69 pp. 1s. 3d.; $0.35.

These two studies are of importance to anyone interested in the problem of Japanese competition. The report by Fernand Maurette, who is Assistant Director of the International Labour Office, is the result of a three weeks' investigation of factories and workshops in Japan in the spring of 1934. The number of establishments covered by Mr. Maurette was not sufficiently large to provide a significant body of material for any conclusive study, but the material collected is interesting and suggestive. More interesting are his conclusions on social dumping. He states, "There is one question to which I do not hesitate to take the responsibility of giving a definite and positive reply—the question of social dumping. . . . If, by analogy with commercial dumping . . ., social dumping is defined as the operation of promoting the export of national products by decreasing their cost of production as the result of depressing conditions of labour in the undertakings which produce them, or keeping those conditions at a low level if they are already at such a level, it may be stated that social dumping, defined in that way, does not exist in Japan." The point that Mr. Maurette seeks to make is not that Japanese labor is not cheap, but that it has not been depressed for the purposes of the export trade, and that the Japanese standard of living is a cheap rather than a low standard. The same point is made by Guenther Stein in his book, *Made in Japan,* where the importance of this cheap standard in providing cheap labor is emphasized.

Mr. Stein's book is a vivid and intimate account of the conditions in Japan that make possible the phenomena of Japanese competition in international trade, and in spite of its journalistic style, it is an excellent analysis. He describes in detail workshops and factories, both small and large, giving the wages, hours, living and working conditions of the men and girls employed in each, and includes some very interesting specific figures on living costs. He also discusses, in their relation to Japan's competitive power, the depreciated yen,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

government subsidies, tariff protection, the powerful Japanese trusts and the structure of Japanese industry. In a chapter on the struggle for supplies, consideration is given to the economic importance of Manchukuo to Japan, together with its political significance; and in the last chapter there is an interesting account of the attitude of the military toward Japan's fundamental economic problems. In regard to the competitive effect of the depreciated yen, Mr. Stein believes that while the higher yen-costs of world-market raw materials have been a neutral factor, the depreciation of the yen has given a definite premium on exports in freight charges and, to some extent, in overhead and domestic raw materials costs, but more especially in wage costs. He also believes that the currency depreciation has not been of sufficient advantage to Japanese industry and trade as a whole for the experiment to be repeated merely to increase the export trade, but that other factors may lead to further and more drastic depreciation.

DOROTHY JOHNSON ORCHARD

NEW YORK CITY

Modern Samoa: Its Government and Changing Life. By FELIX M. KEESING. Stanford University, Stanford University Press, 1934.—506 pp. $4.00.

Taming Philippine Headhunters: A Study of Government and of Cultural Change in Northern Luzon. By FELIX M. KEESING and MARIE KEESING. Stanford University, Stanford University Press, 1934.—288 pp. $2.75.

The Origins of International Rivalry in Samoa, 1845-1884. By SYLVIA MASTERMAN. Stanford University, Stanford University Press, 1934.—233 pp. $2.75.

The first two of the studies listed above are parts of a research project on "dependencies and native peoples of the Pacific" conducted under the auspices of the International Research Committee of the Institute of Pacific Relations. Although Mrs. Keesing is designated as the co-author of the Philippine book only, Dr. Keesing, in the foreword to the volume dealing with the Samoans, states that recognition is due to his wife, "who accompanied him to Samoa and participated in the study throughout." Therefore, without going into the magnitude of their respective contributions, the two books can be

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

regarded as collaborative products. Though it is probably a mistake to attempt to classify studies of this type, they may perhaps be described as a compound of sociology and history. The emphasis is upon the current cultures of the areas, far more space being given to recent conditions and changes than to the past, but sufficient history is given to enable the reader to understand the past influences which continue to operate in the present. The authors' approach to the subject in both the Philippines and the Samoans has been searching, thorough and intelligent, and carried through with admirable ability to produce two studies which are clear, informative and enjoyable to read. By examination of documents, by discussions with persons of long experience with the natives, and by protracted visits to the areas, Dr. and Mrs. Keesing have endeavored to reconstruct conditions before and after the advent of colonial governments in Northern Luzon and the Samoans, and it must be said that their endeavor has been most successful. Not only do the authors adequately describe various aspects of living among the natives before and after their subjection to the control of a more civilized people, but they sketch the framework of the colonial administration with its underlying principles, and with both shrewdness and detachment they analyze the influence of this government upon native cultures. Whereas the division of the Samoans between Germany and the United States, and subsequently between the latter and New Zealand under a mandate, may have complicated the task of the authors in organizing their materials, the fact that Eastern and Western Samoa, with like ethnological and cultural backgrounds, have been ruled by different forms and philosophies of colonial government affords an excellent opportunity to observe the effect of contrasting administrations upon virtually identical cultures. The contrast does not end between Eastern and Western Samoa, since in the latter a comparison between the colonial governments of Germany and New Zealand is presented.

The government of the "non-Christian" tribes in the Philippines has presented a problem within a problem in administration of dependent people. Slightly less than a tenth of the total population of the Islands, they follow a primitive life unlike that of other Filipinos, and the task for the colonial government has been to maintain order, tolerable traditions and a measure of economic security among natives who have been utterly unassimilable by their fellow islanders. Spain began the job; the United States has continued it; and in the future the Filipinos must carry it on. Nearly all, if not all, discussions of granting independence to the Philippine Islands

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

have brought forth assertions from opponents of their freedom that the non-Christian minority would be harshly and unjustly treated by the majority. The truth or falsity of this contention will be tested by the future. As the authors observe (p. 9), "an independent Philippines will have them to deal with for long as more or less dependent peoples within its borders—they are, so to speak, the colonial problem of the Filipino."

Miss Masterman's volume is one of those rare pieces of historical scholarship which is adequately and accurately described by its title. She relates the tale of German, British and American rivalry in the Samoans from 1845-1884 with lucidity and evident acquaintance with the source materials of all three nations. It seems regrettable that the author did not extend the period covered to 1899, since that year witnessed the climax of the rivalry for control or possession of Samoa. To end the book at an earlier date is to lower the curtain without playing the last act of a well-known drama. The regret is tempered, however, by the existence of the splendid study by George H. Ryden, *The Foreign Policy of the United States in Relation to Samoa* (published in 1932), which, though written primarily from the position of the United States, treats very fully the activity of Great Britain and Germany in the Samoans until the twentieth century.

SAMUEL MCKEE, JR.

COLUMBIA UNIVERSITY

Deutschland und die Vereinigten Staaten in der Weltpolitik. By ALFRED VAGTS. New York, The Macmillan Co., 1935. 2 Vols. —xxii, 2030 pp. $16.00.

Here is German scholarship at its very best: excellent organization, admirable technique, virile and decisive prose. An exile from Germany, Herr Vagts has written two remarkable volumes on German-American relations from 1890 to 1906, without doubt the most significant contribution on this subject since Jeannette Keim's *Forty Years of American-German Relations* (Philadelphia, 1919). It is a model of dispassionate historical writing.

The author has made good use of unpublished source material in the German Foreign Office, the Hamburg State Archives and the Department of State at Washington, as well as in the papers of Andrew D. White at Cornell, Frederick W. Holls, Secretary of State Richard Olney, Henry Villard and Theodore Roosevelt. He dis-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

cusses at length the diplomatic problems involving the United States and Germany in Samoa, the Far East, the Philippines, Venezuela and Morocco, and throws light on the Monroe Doctrine, the Hague Conferences and naval competition. Each chapter is a major dissertation in itself. Chapter x of volume I, for example, "Germany and the United States in Samoa", which runs to over three hundred pages, is a thorough treatment of the highly involved diplomatic relations between the United States, Germany and England in the settlement of the vexing Samoan problem with its *furor consularis et navalis*.

Not the least interesting contribution made by Herr Vagts is the uncovering of a hitherto unknown exchange of letters between William II and Theodore Roosevelt, a remarkable "Willy-Teddy correspondence". These letters reveal that both men were fundamentally similar in character and temperament: inordinately ambitious, impulsive, egotistical, amateurishly benevolent. In January 1904, Roosevelt lauded William's "brilliant mastery of heavy tasks" and his "lofty adherence to noble ideals." The Kaiser answered in equally flattering tones, praising Roosevelt's "dauntless energy of purpose, purity of motives, crowning iron will." To him the American president was "a splendid specimen of the Anglo-Saxon-Germanic Race." This mutual back-slapping had no more political effect than the famed Willy-Nicky correspondence. By 1910 Roosevelt was calling William II "a great bluffer", and by 1916 his aversion to Germany had progressed so far that he was damning Wilson as a "flubdub and a mollycoddle" because Wilson had not taken a stronger stand against the "barbarous Hun".

The connecting link in this work is a recurring theme of bitter economic competition between the powers. The author breaks away from the old formalistic approach of conventional diplomatic history, in which official notes and conversations are used to depict the tone of diplomacy, and searches for more fundamental forces as expressed in economic factors. His vivid contrast of the character and social background of imperialism will be of great value to historians of American expansion. In a final excellent chapter Herr Vagts comes to the conclusion that diplomatic harmonization is futile in imperial competition.

Herr Vagts's material is so rich, and his conception of social and political theory operates on so vast a scale, that even with its great length the work remains a triumph of condensation. For the reader it is slightly marred by the existence of ponderous footnotes (nearly every page is burdened by what J. Salwyn Schapiro calls "heckling

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of the text by the footnotes"). Its usefulness is also somewhat impaired by an inadequate index and by the fact that the bibliography is buried among the footnotes. Author and publisher, however, are to be congratulated on the production of these volumes of unusual beauty (type and binding are of superlative excellence) as well as of genuine merit.

LOUIS LEO SNYDER

THE COLLEGE OF THE CITY OF NEW YORK

American Foreign Policy in the Post-War Years. By FRANK H. SIMONDS. Baltimore, The Johns Hopkins Press, 1935.—160 pp. $2.00.

In these Albert Shaw lectures the late Mr. Simonds has presented a keen, brilliant, somewhat provocative and characteristically pessimistic survey of recent American foreign relations. He contends that the foreign policy of the United States from 1921 to 1935 was "an almost unrelieved record of frustration and failure" (p. 111)—a failure which he describes, and the causes of which he analyzes, under the headings: the economic aspect, world peace, security, and disarmament.

In the economic field, the author states, the United States attempted the impossible task of playing the rôle of a great creditor nation and, at the same time, maintaining a high protective tariff which prevented foreign debtor countries from paying their balances due. The consequences "were catastrophic and the attempt to collect the war debts was as futile as it was foolish" (p. 38). World peace the United States wanted but was unwilling to pay for. It would assume no political or military obligations and attempted to prevent wars by the ineffective pledges of the Kellogg Pact and the Washington Conference treaties. To obtain national security the United States has depended largely on its navy, and after the World War insisted on naval equality with Great Britain and a 5:3 ratio with Japan. But neither of these demands was based on the need of protection; each has become a question of pride and prestige. An American fleet merely the equal of Japan's would be adequate for the protection of Hawaii and the American mainland, while a fleet necessary to uphold the integrity of China and American policies in the Far East would need to be many times larger than 5:3. In its effort to bring about general limitation of armament the United States was also unsuccessful. "Effectively to promote disarmament in Europe, the United States had to join the League of Nations and subscribe to

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

all the engagements of the Covenant" (p. 105). The failure of American policy in these several fields, however, "was due, not to the employment of wrong methods to attain possible ends, but to the pursuit of goals which were themselves unattainable" (p. 125).

This review of the failures of American diplomacy is followed by an outline of what should be the future foreign policy of the United States. The fundamental principles of a correct policy, it is stated, are political isolation, a protective tariff, and economic self-sufficiency. By reason of the geographical position of the United States, its security is not threatened, a collective system is of no value to it, and an adequate neutrality law will keep it out of the next European war. The United States should be willing to meet other states in consultation and conference, but with "an uncompromising refusal to ratify any international agreement which envisages coercion whether exerted by military, economic, or moral sanctions" (p. 153).

This survey is clear-cut, valuable and stimulating; it brings a challenge to our internationalists and support to those who would base American foreign policy upon political isolation and economic nationalism. It does not, however, cover all of American diplomacy since the World War, even all important phases of it. It does not include our relations with Latin America nor with the Soviet Union; in fact, it is limited to two topics: the economic aspect of American foreign affairs and the problem of peace. The charge that our entire post-war foreign policy has been a failure is certainly not true; it is not true in regard to Latin American relations, which rarely have been so satisfactory and so successful as they were when these lectures were delivered.

It is doubtless correct that confusion of thought has characterized the majority of Americans in regard to the question of international trade and investments; but the failure to bring international peace is not due to confused thinking, but rather to the tragic fact that the long-held principles of the American people for the maintenance of peace have been demonstrated to be unsound under existing world conditions. Americans as a whole have long believed that international pledges to keep the peace, supported by world public opinion, would be adequate to prevent war. Certainly world opinion has often been a powerful force; but in the recent past a world opinion, almost unanimous and strongly expressed, has been unable to check the military advances of Japan, Italy and Germany. The inability to establish international peace, however, is not primarily an American failure; it is a world failure.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The fundamental criticism of this volume is that it presents a policy of scuttle and defeat. The author censures the United States because it tried to obtain international peace without paying for it by assuming political and military commitments; but, later, he states that the United States cannot bring peace to Europe and the Far East by joining the League of Nations nor by any other action which it might take—unless, in order to help satisfy the economic needs of the dissatisfied states, Germany, Italy and Japan, it should "consent to sacrifices as yet beyond the capacity of any country" (p. 65). In view of this situation he recommends a policy of extreme isolation and virtual abandonment of all efforts for international peace and implies that we should "bear the future costs of international anarchy uncomplainingly" (p. 105). But no foreign policy which voluntarily accepts recurring war as a permanent part of the international system will ever satisfy either the moral standards or the economic interests of the United States. The "costs of international anarchy" —or of any general or world war whether we engage in it or not— will be, in part, economic disaster to the United States. Because it is difficult to achieve international peace is no reason for giving up the attempt in despair. If American efforts for peace since the World War have been futile, it behooves us to adopt other methods.

GEORGE H. BLAKESLEE

CLARK UNIVERSITY

Great Britain and the Law of Nations: A Selection of Documents Illustrating the Views of the Government in the United Kingdom upon Matters of International Law. Volume II: *Territory* (Part I). Edited by HERBERT ARTHUR SMITH. London, P. S. King & Son, Ltd., 1935.—x, 422 pp. 16s.

This second volume of Professor Smith's work is an important book. No one who writes hereafter on the subjects with which it deals can ignore it. The subjects are Title to Territory (including discovery, occupation, abandonment), The High Seas, Territorial Waters (including limits, straits, bays, hot pursuit, jurisdiction in ports) and International Rivers. Some of the data are not only of great value but of absorbing interest. Professor Smith has curtailed his own comments and has printed documents more fully than he did in his first volume, which was reviewed in the POLITICAL SCIENCE QUARTERLY, (vol. XLVIII, June 1933). With no disrespect to Professor Smith, this was a wise decision since the book is essentially

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

a compendium of documents, as its sub-title declares. One can only sympathize with the difficulties imposed by the limitations of time and resources to which he refers in his preface, but it seems a mistake to plan the book, as he avowedly has, to fit "the modest library of the ordinary student". The reviewer heartily commends it for inclusion in such collections but bemoans any considerations which limit the publication of the rare stores of material from which Dr. Smith has drawn in the British Public Record Office. Of these the most notable are the opinions of the Law Officers of the Crown and of other British officials. Where can one find a more interesting series of documents than those printed on pages 210-219, giving the views in 1864 of the Board of Trade, the Admiralty and the Cabinet on the desirability of extending the three-mile limit? There are also selections of hitherto unpublished diplomatic notes to and from the British Government which are superb materials. Not only do these documents throw much new light on many legal problems, but together they give a picture of a foreign office in action which is more illuminating and more fascinating than the most eloquent description. In this respect, Dr. Smith has in many instances done an excellent piece of editing, interspersing just enough explanatory matter to hold together the thread of the story in the documents. A Conrad or a Tomlinson might well relish pages 83-96, where is set forth in official documents the romantic story of Rajah Brooke of Sarawak. The editorial skill is not always apparent. The editor—who is also the author of *The Economic Uses of International Rivers*—has allowed his expert knowledge of and interest in international rivers to run away with parts of chapter x which becomes more treatise than compendium—a good treatise but out of key. So too with the first two sections of chapter vii on the High Seas. Perhaps too much space is devoted to the familiar Behring Sea seal controversy, which fills an appendix of over fifty pages.

To the reviewer the first and third chapters (chapters vi and viii in the consecutive numeration which is adopted), dealing with title to territory and with territorial waters, are the most exciting. See, for example, Lord Stowell's distinction in 1821 (pp. 2-3) on the different rules applicable to islands and continents. Not all of the data are drawn from ancient law, as witness the section (pp. 62 *et seq.*) on the Bahrein Islands from 1927 to 1929. There is useful new material in section v of chapter viii on the measurement of territorial waters around reefs and islands. Thus, too, the precedents of 1841 and 1852 on hot pursuit (pp. 250-252) are welcome.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The reviewer hopes that further volumes in the series will seek less to fit the modest library of the student and, by eliminating documents readily obtainable elsewhere, leave more room for rare materials not otherwise available. An index to each volume would also enhance the value of a work which is essentially of a reference character.

PHILIP C. JESSUP

The Soviet Union and International Law: A Study Based on the Legislation, Treaties and Foreign Relations of the Union of Socialist Soviet Republics. By T. A. TARACOUZIO. New York, The Macmillan Co., 1935.—xvi, 530 pp. $7.50.

One of the interesting speculations of the post-war era has been that of wondering how ordinary everyday relationships were going to be carried on between the newly created Soviet state and a non-communist international society. In rejecting capitalist ideology the Russian revolutionists had at the same time discarded some of the foundation stones of the system according to which the nations of the world had been accustomed to do business across their respective boundaries for several centuries. But relations on a large scale require some common basis of understanding if they are to be carried on with confidence and without continual conflict, and it was difficult to see where such a basis could be found in Soviet doctrine and the established practices of the non-communist world. How, for example, could fruitful commercial relations be maintained between an economic system which exalted individual rights and one which subordinated them wholly to the welfare of the community? What normal political contacts were possible between an old-time sovereign state and a nation which repudiated the very conception of the state, regarding it rather as a machine of suppression of one class by another? How could legal relations be carried on between a community which looked upon law as the very basis of the social order and one which saw it primarily as a guarantee of inequality? Yet we know that, as a matter of fact, relationships have been conducted on a large and steadily increasing scale between the Soviet Union and the outside world, and that the U. S. S. R. is now a full-fledged member of the Family of Nations in at least tolerably good standing. It is interesting to observe how this has been brought about in the face of seemingly irreconcilable doctrinal conflicts.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Mr. Taracouzio's book throws considerable light on this interesting question. He does not set out to answer the general problem of how the two opposing systems can find a permanent doctrinal reconciliation, but rather to indicate what specific adjustments have in fact been made by the Soviet Government in meeting practical situations. He is concerned with noting which of the more common rules of international law have come up for consideration in the course of Soviet relations with the outside world and what position the Soviet Government has taken with regard to such rules, in so far as this may be revealed in the laws and regulations adopted by the Government and the treaties it has entered into with foreign states. The topics which have come up often enough to warrant inclusion in Mr. Taracouzio's survey are sovereignty, territory, nationality and citizenship, status and legal capacity of foreigners, diplomacy and the consular service, treaties, the pacific settlement of international controversies, and war. In each case he states his own conception of the existing international law on the subject and then gives an account of the Soviet laws, regulations and treaty provisions bearing upon it.

The general impression which most readers will doubtless obtain from Mr. Taracouzio's account is that the Soviet Government has conformed to a surprisingly large extent with the established practices of non-communist states as embodied in international law. Wherever it has been necessary to modify a Marxian tenet or to set aside an obvious deduction from communist ideology in order to arrive at a workable basis of intercourse with a foreign state, the Soviet Government has apparently not hesitated to do so. The question naturally arises whether this means that the Russian nation is slowly finding its way back into a non-communist international order, or whether these are merely temporary adjustments made in order to get along until the rest of the world becomes communistic.

Mr. Taracouzio is cautious in giving an answer to this question. On the one hand, he indicates a belief that the accommodating spirit shown by the Soviet Government in adjusting its doctrine here and there to traditional practice is temporary and is dictated by expediency. On the other hand, he suggests in his concluding chapter that the logical inconsistencies in the Soviet legal position are the natural result, not of the difficulty of adjustment to a different system, but of anomalies inherent in the Marxian dogma itself. Whatever the real explanation, it is interesting to observe how doctrinal conflicts which seemed unavoidable at first have been evaded or resolved without doing irreparable damage to either system.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The method of presentation which Mr. Taracouzio has followed offers some difficulties. His brief descriptions of existing international law on the topics treated are often superficial and sometimes open to serious question. The number of times a particular subject has been acted upon by the Soviet Government, and hence the amount of space it is apt to receive in the present volume, has very little relation to its importance as a subject of international law. For example, one fifth of the text is devoted to rules of law relating to the diplomatic and consular services, whereas neutrality is disposed of in less than a page. Furthermore, the method pursued necessarily involves frequent and extensive quotation from legislative enactments and treaties, which by no means makes for easy reading. But apart from these difficulties, arising largely out of the method pursued, the volume is an admirable study of a difficult and increasingly important subject. One can be very grateful to Mr. Taracouzio for having made available in English such a mass of interesting and useful material.

FREDERICK SHERWOOD DUNN

YALE UNIVERSITY

Condorcet and the Rise of Liberalism. By J. SALWYN SCHAPIRO. New York, Harcourt, Brace and Company, 1934.—311 pp. $3.50.

The thesis of this book, as stated by the author in his foreword, is that the really great figure is often too far above his age to express it fully and adequately. The secondary figure, provided he is sufficiently versatile, is a better representative of the thought of the time. This, Mr. Schapiro argues, was emphatically true of the *philosophe* Condorcet. Though far from exercising the influence of Voltaire or Rousseau, of Montesquieu or of Diderot, he "stands out as an almost perfect expression of pioneer liberalism of the period." Moreover, as one of the few *philosophes* who were active participants in the Revolution itself, his career also presents a picture of the theorist confronted with the practical problems of actual revolution. The task, then, which Mr. Schapiro sets himself is not to produce an authoritative biography—that was done by M. Leon Cahen—but to make a synthesis and an interpretation. In the first fourth of the book he outlines the framework of eighteenth-century liberalism with its ideas of self-government based on a representative parliament, its principle of nationality, of *laissez faire* in economics, of tolerance in

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

religion and of popular education. With this framework of reference he next proceeds to sketch in the main events of Condorcet's life. The major part of the book, however, is devoted to showing how typical Condorcet was of his time, both in the externals of life and in his intellectual development and interests.

Like many of his contemporaries he was born of the union of nobility with wealth and was destined by his family for the army. He persisted, however, in turning to the career of a mathematician. His precocious and brilliant achievements drew him to the circle of the most intellectual salons. But he soon deserted mathematics for the social sciences and became an ardent disciple of Turgot, an outstanding physiocrat and a contributor to the Encyclopedia. Greatly discouraged by the dismissal of Turgot, he was tempted, as he wrote to Voltaire, to go back to geometry and philosophy. He resisted the temptation, however, and threw himself with renewed energy into the work of reform. His interests included the negro slaves in the French colonies, the French protestants and the victims of the iniquitous judicial system. In politics he was an admirer of a constitutional monarchy and a supporter of a considerable degree of local self-government.

As in his career before the Revolution he had not ranked among the foremost *philosophes,* so during the Revolution he cannot be counted among the great revolutionary figures like Mirabeau, Danton and Robespierre. But here again Mr. Schapiro portrays him as a typical liberal, a liberal, however, inclined to the radical side. As a journalist and pamphleteer, though not a member of the Constituent Assembly, he opposed the Civil Constitution of the Clergy because it recognized the clergy as state officials, criticized the Constitution of 1791 as undemocratic and by the summer of that year was advocating republicanism. Elected to the Legislative Assembly he did not ally himself to any party but sat, as the author puts it, quoting Lamartine, "on the ceiling." His chief work was his plea for popular education embodied in his famous but unrealized report. According to M. Herriot, "there is no educational reformer in France who can afford to neglect this document in which is concentrated and epitomized the best in the experience and in the revolutionary thought of the eighteenth century." As a member of the Convention, his notable contribution was the draft of the constitution in which he essayed to embody the fundamental principles of the Revolution. Proscribed with the Girondins he spent what were to be his last days in writing his celebrated *Sketch of the Intellectual Progress of Mankind.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Though his ideas were typical of his time, he failed for the most part to turn them into actualities. This was due largely to limitations of his own personality. As a writer he lacked style and humor. As a man he was, or was thought to be, aloof and lacking in human sympathy, and as a political leader he was too doctrinaire. In some ways he was far ahead of his time, as for instance in his advocacy of equal educational opportunities for men and women and of suffrage for women. Mr. Schapiro has presented a well-worked-out thesis and a convincing argument that Condorcet in most respects was the very embodiment of an epoch. This was especially true of the *Esquisse,* which was an "almost perfect expression of the ideals and hopes of that age: its humanitarianism; its cosmopolitanism; its belief in the power of reason and in the innate goodness of human nature; and, above all, its faith in progress."

ELOISE ELLERY

VASSAR COLLEGE

The Estates General of 1789. By MITCHELL B. GARRETT. New York and London, D. Appleton-Century Company for The American Historical Association, 1935.—vi, 268 pp. $3.00.

Professor Garrett's volume, which owes its inception to the late Professor Fling, of the University of Nebraska, announces in the preface a twofold aim: to "read all the pamphlets published in France during the summer and fall of 1788, determine their localization and authorship, and make a study of the development of public opinion in regard to the composition and organization of the promised Estates General." This purpose has been admirably achieved and fills, thereby, an outstanding gap in research on the beginnings of the French Revolution.

The book covers the period between February 22, 1787 and January 24, 1789, that is to say from the first Assembly of Notables until the issuance of the royal regulation for the convocation of the Estates General, but the bulk of it is devoted to the seven months between the royal order of July 5, 1788 and the convocation order. In view of this fact, the title of the present volume is slightly misleading. Attention should be called to the subtitle, which does not appear on the cover, namely: *The Problems of Composition and Organization.* Let us hope that Professor Garrett will continue his work upon the pamphlet literature and publish a second volume covering the period between January 24, 1789 and June 17, when the Estates General

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

was transformed into the National Assembly. For the latter period the *cahiers* have been adequately studied, but similar research upon the pamphlets is needed.

The greatest praise is due the author for his bibliographical work upon the pamphlets. Anonymity, duplication under different titles, diverse editions, absence of editorial marks and poorly classified collections of surviving pamphlets have made the task of identifying and classifying the pamphlet literature of 1788 and 1789 one of the most baffling source problems of the French Revolution. Professor Garrett has rendered a signal service for all future study of pamphlets by the section of the bibliography (pp. 227-63) devoted to the listing of over eight hundred pamphlets in five chronological groups, corresponding to the intervals between strategic events of the seven month period.

This bibliographical work was a necessary preliminary to the analysis of the problems of the Estates General. The author examines opinion relative to three main questions: whether the method of convocation of 1614 shall be used with or without change, numerical representation of the three classes, and the procedure for voting in the Estates General. Although Professor Garrett describes the opinion of the royal ministers, the Assembly of Notables, the *Parlements,* the princes, and the municipalities, his most significant contribution is his examination of the pamphlets relative to these same three questions. Skillful summaries of the more important pamphlets of each period are given, while one whole chapter is devoted to Siéyès' *What Is the Third Estate?* The author considers this pamphlet worthy of special attention because of its style and also because the third estate in the Estates General proceeded along lines recommended by Siéyès.

There are places in the text where more footnotes would help the careful reader, but on the other hand, the author should be commended for the clarity of his narrative. Although he has drawn upon both Droz and Chérest, the text is a skillful weaving together of new material drawn from the sources. Professor Garrett concludes that the pamphlet literature had little effect upon the plan for the composition and organization of the Estates General actually carried out by the government, but recognizes its potent influence in developing public opinion. The pamphlets prepared the solidarity of the third estate and gave it a program.

BEATRICE F. HYSLOP

HUNTER COLLEGE

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

In a pleasing style and with a sympathy and understanding that are the product of prolonged direct contact with his subject, Grover Clark, in *The Great Wall Crumbles* (New York, The Macmillan Company, 1935; xvii, 406 pp. $3.50), has added another to his list of enlightening writings on affairs of the Far East, in particular, of China. Without pretense to weighty scholarship, the volume offers a clear and interesting picture of the problems (economic, political, social, cultural and international) confronting the China of today, with enough of the historical background to render the story intelligible and satisfying to the general student and intelligent reader. Specifically, the book deals with the results of the breaking down of the barriers (symbolized by the Great Wall) which have thus far separated the streams of Eastern and Western civilization. It attempts to show, with frequent historical reference, not so much what has actually transpired, as why the events have occurred in one particular way and not in any other. The topics considered include the Chinese family-clan, the guilds, the organization of village life, Chinese concepts of justice, the growing contacts with the West and the resulting clashes and needs for readjustment, China's position in the field of international trade, the changes and latest developments in the spheres of religion and education, the old and new national governmental set-ups, the student movement, boycotts, the anomaly of Chinese communism, and China's diplomatic vicissitudes since the arrival of the "first modern Western adventurer" in 1516. In view of the recent diplomatic happenings in the Far East it is interesting to note the author's sentiment that "though Japan for a time may be able not only to hold what she has taken but to take more, this fundamental fact remains to tip the scales in China's favor sooner or later in the contest with Japan: China does not need Japan, but Japan cannot live without China." A final, brief but illuminating chapter entitled "Coöperation or Disaster?" ends with a paragraph which well summarizes Mr. Clark's standpoint: "Of skill in mastering things the West knows far more than China. Of the difficult art by which men live together as civilized human beings, it knows far less. China is strenuously at work acquiring that skill for use in a still essentially uncivilized world. The West, for its very life's sake must learn and apply that art so that the shrunken world of today may become civilized and peaceful. Otherwise the West itself

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

and the resurgent Far East will be destroyed together in the clash of the forces and ambitions which the West has evoked."—WALTER CONSUELO LANGSAM, Columbia University.

An important contribution in the story of the complicated diplomatic problems of Northern Africa has been made by Professor F. R. Flournoy in his book *British Policy Towards Morocco in the Age of Palmerston (1830-1865)* (Baltimore, The Johns Hopkins Press, 1935; xiii, 287 pp. $2.75). From the time of Napoleon's Egyptian expedition to Mussolini's Ethiopian invasion Northern Africa has played a significant part in the diplomacy of European states. The British have held a consistently important part in this drama. Dr. Flournoy has given us a detailed study of Great Britain's attitude towards Morocco in what might be called the formative period of her policy in the Mediterranean. Palmerston, more than any other British statesman, formulated the British policy towards Northern Africa which, with only slight variations, has been continued for almost a century. Prompted first of all by the desire to establish and maintain British supremacy, Palmerston sought the maintenance of the *status quo*. This necessitated supporting and humoring backward and inefficient governments. Morocco should be kept at peace with European powers, especially France. Palmerston was convinced that "it should finally be observed that the maintenance of the independence of Morocco was closely connected . . . with the protection of British interests in the Empire, at least so far as those interests were commercial" (p. 69). The French made numerous threats to expand their interests into Morocco from Algeria, and the British openly opposed them until the eve of the *Entente Cordiale* in 1904. The British Moroccan problem, as Professor Flournoy points out (p. 251), was only a part of the general British policy towards a number of backward states. The struggle over Morocco along with Algeria, a few years earlier, is the introduction to the imperialistic struggle of the nineteenth and twentieth centuries. The African problem, in reality the whole Mediterranean problem, which resulted in the complications of the present century, can be traced to conditions which Professor Flournoy introduces. The author has produced a scholarly piece of work. He has used archival sources carefully and has examined a vast amount of printed material on the subject. The first and eighth chapters are deviations from a study of diplomatic problems and in many respects fail to live up to the standard of the others. The book is a welcome contribution, and it is hoped that the author will continue his work in this important field.—J. E. SWAIN, Muhlenberg College.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Many of the materials needed in the teaching of comparative government are unavailable to undergraduates either because they are written in foreign languages or because they are scattered in pamphlets and collections rarely accumulated by college libraries. Teachers of courses in European governments will therefore welcome *The Background of European Governments,* by Norman L. Hill and Harold W. Stoke (New York, Farrar & Rinehart, 1935; xv, 604 pp. $2.75), a book of readings dealing with the governments of England, France, Italy, Germany and Russia. The selections taken from scholarly journals, public documents, the Fabian Tracts, commentaries upon constitutions, memoirs and correspondence are the most successful choices. The authors have been less successful in their truly praiseworthy effort to bring to the American student something of the flavor of politics in the countries covered. The selections from newspapers and popular articles and books are less useful than the more substantial contributions among which they are distributed. Some of the journalistic contributions are intellectually flimsy and, in their original form, gained force through reiteration, quantity and skillful presentation to an amused and uncritical audience. In their abreviated form these selections appear weak and ineffective. Happily there are not many instances of such selections, and the few have a sufficient grain of truth to justify their inclusion. The appearance of lack of unity in the book, caused by the uneven quality and variety of the selections, is heightened by the less justifiable variety in the treatment of the different countries. The best and most extensive section, comprising almost half the book, is devoted to British government. One could suggest few additions, though the omission of the Statute of Westminster is outstanding. The section dealing with French government is briefer and follows the same general plan, though local government is all but omitted. The German section is based upon a wholly different and less satisfactory pattern. The German Republic receives far less attention than its importance warrants, and the lack is felt all the more because the chapters on National Socialism and the Third Reich give almost no space to the organization of the administration and local government. The German civil service is ignored except for the Hitler decrees. No attention is given to local government except for the unification of the states with the Reich. The social and economic conditions leading to the creation of the Third Reich are inadequately summarized in a description of a National Socialist audience. In the case of Italy and Russia a third and probably superior plan is followed.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The selections for these countries are classified under the headings of political theory, governmental structure and problems. Here, however, the discussion raises the question as to why no attention was paid to the social and economic conditions of France and England and very little to the plans for reform in parliamentary democracies. The authors must be commended for undertaking a pioneer task in a field where our needs are so great. *The Background of European Governments* will be welcomed for use in connection with the leading texts in the field since it follows them in organization and apportionment of space.—WARNER MOSS, New York University.

At the time of the initial appearance of Dr. W. Randolph Burgess' study, *The Reserve Banks and the Money Market* (Revised Edition. New York and London, Harper & Brothers Publishers, 1936; xxv, 342 pp. $3.00), in 1927, the federal reserve banks occupied a dominant position in the money market. By present standards the excess reserves of member banks were negligible. Relatively small credit operations on the part of the federal reserve banks were followed by significant money market changes. At the present time the excess reserves of all member banks approximate two billion dollars. The federal reserve banks no longer occupy the central position in the money market. This is held by the Treasury Department, and the growth in excess reserves is the consequence largely of the monetary policies of the Administration. The fundamental changes which have taken place necessitated extensive revisions and the addition of new materials in Dr. Burgess' work. In an introduction to this second edition President Harrison of the Federal Reserve Bank of New York writes that its appearance is "in consonance with a well established policy of the System to attempt to explain its operations to the public as fully as possible". As would be expected, the book, in the furtherance of this policy, is primarily concerned with the mechanics of the money market. These are set forth in a thorough and lucid fashion, with bank reserves the focal point in money market analyses. Primary emphasis on money market mechanics has not excluded all discussion of theory and policy. Thus Dr. Burgess continues to adhere to the surplus concept of money market funds and to accept the shiftability definition of liquidity. The author questions the theoretical as well as the practical value of the eligibility standards of the Federal Reserve Act (p. 52), regards the tradition against borrowing as more important than rate control (p. 220), deplores the dependence of the bill market on the federal reserve banks (p. 178), looks upon the power to raise

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

reserve requirements as a most useful addition to federal reserve policy (p. 260), and concludes that federal reserve policy was largely ineffective in preventing the inflation of the twenties and in stimulating recovery through the great depression.—BENJAMIN HAGGOTT BECKHART, Columbia University.

Although Mr. Edward Hughes has written with "special reference to the history of salt taxation in England", his volume, *Studies in Administration and Finance, 1558-1825* (Manchester, Manchester University Press, 1934; xiii, 528 pp. 21s.), constitutes much more than a saline solution, for it throws light, a somewhat diffuse and diffractive light to be sure, upon problems too often regarded as narrowly and exclusively political. Alongside salt as a source of revenue and a phase of economic development, he has devoted considerable space to such matters as the place of corporations within the state, the general evolution of the excise, changing economic conditions in the country, English financial administration and the relation of public finance to private trade, as well as to a number of other topics incidental to his main account. The volume is well named *Studies,* for the chapters possess far less cohesion than one normally anticipates—no more in fact than a rope of salt (if we except the 1926 footnotes numbered consecutively throughout the book). The author does not spare his readers; innumerable details, many of them irrelevant, bristle on every page. Such a labyrinth may have advantages, but it clearly does not make for ease of reading or understanding. The studies need have lost no essential facts and could have gained greatly in effect by rigorous, even ruthless, excision, since much of the detail (as presented) is of no value or interest to most readers; and many students who are interested will wish to go to the sources for themselves. Even the notes are unnecessarily cluttered. Historically as well as physiologically, a good digestion is preferable to an overburdened table. Mr. Hughes, it seems, got not only his inspiration but also some deficiencies in exposition from his teacher, the late George Unwin. Yet it were carping indeed to disregard the valuable aspects of these studies, notably the contribution to administrative history, the correcting of old generalizations, and the comprehensive bibliography furnished by the author in his notes. To the reader willing to punish himself this volume is a mine of significant information and at times a source of suggestive ideas. With such a solid basis of achievement, Mr. Hughes himself may in the future give us a more meaningful appreciation of some of the problems with which he has here been concerned.—CHARLES F. MULLETT, University of Missouri.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

In Memoriam

GEORGE ARTHUR PLIMPTON died at his summer home, Lewis Farm, Walpole, Massachusetts, on July 1, 1936. The founder and for nearly thirty years the sole proprietor of the POLITICAL SCIENCE QUARTERLY, he was for exactly half a century its patron and its best friend and counsellor. At the ripe age of eighty years, he was as intellectually alert and active in his many philanthropic and academic interests as at any time in his remarkable career.

Dr. Plimpton shared with John W. Burgess the vision that led to the founding of the Faculty of Political Science at Columbia University, the Academy of Political Science and the POLITICAL SCIENCE QUARTERLY as parts of a comprehensive program for the promotion of good and informed citizenship throughout the United States. Although Mr. Plimpton was never officially connected with the Faculty of Political Science, he participated from the beginning with its members in every experience and in the solution of all the problems of the first half-century of its history. Similarly he must have shared from the beginning in the work of the Academy of Political Science, although his name does not appear in the earlier lists of members, either honorary or active. His continuous service as its Treasurer seems to have begun in 1895 or the following year. At the time of his death he had served continuously as Treasurer and Trustee of the Academy for thirty years.

As his part of the combined program, Mr. Plimpton established the POLITICAL SCIENCE QUARTERLY in 1886 and for many years published it as a private venture. In the editing and management of this journal he had the fullest coöperation of the Faculty of Political Science, and from the beginning the QUARTERLY was in fact an organ both of the Faculty and of the Academy. For nearly thirty years he made himself personally responsible for the finances of the QUARTERLY. After it had become established and self-supporting, he turned it over, together with the stock of back numbers which had been handled by his firm, Ginn and Company, to the Academy, which has published it for the last twenty years.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Mr. Plimpton's other relationships to the University, as Treasurer of Barnard College, member of numerous academic committees and organizations, and friend and counsellor of many members of the University, were equally helpful and significant. His internationally known activities as publisher and collector of rare books and manuscripts that trace the history of education back to the earliest times were appreciated and recognized by the leading universities of the world, and nowhere more so than at Columbia, to which he bequeathed this unique collection. His activities as a philanthropist were always those of one deeply interested in education and educational values.

In those who have been associated with the QUARTERLY, the Academy or the Faculty Mr. Plimpton inspired a sentiment of warm affection toward himself and of fidelity to high ideals. To all such, as well as to a host of other friends, his death brings a sense of irreparable personal loss.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED